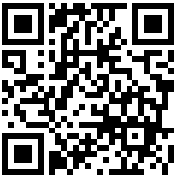

State of Minnesota.

Office of the Secretary of State.

St. Paul, Aug 22 1876

Victor Gjertsberg

THE

DEBATES AND PROCEEDINGS

OF THE

Minnesota Constitutional Convention

INCLUDING THE

ORGANIC ACT OF THE TERRITORY.

WITH THE

ENABLING ACT OF CONGRESS, THE ACT OF THE TERRITORIAL LEGISLATURE RELATIVE TO THE CONVENTION, AND THE VOTE OF THE PEOPLE ON THE CONSTITUTION.

Reported Officially by Francis H. Smith.

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REPORTER'S PREFACE.

The Debates of the Convention which framed the Constitution of Minnesota differ, in some essential particulars, from those of other similar bodies under whose auspices the different States of the Union have commenced their organic existence. From the fact that a portion of the Delegates-elect to the Convention, representing one of the great political parties of the Territory, not only refused to co-operate with the Convention in its proceedings, but constituted for themselves a rival organization, leaving the body composed entirely of Democratic members, many topics usually forming the bone of contention in such assemblies were disposed of with little discussion and almost entire unanimity, while others unknown to its predecessors occupied much of the time of the Convention.

There is also another somewhat peculiar feature of the Debates which might, at first, seem to depreciate their value: the draft of the Constitution finally adopted was the work of a joint committee of the two Conventions, and was acted on with comparatively little discussion; but when it is remembered that the Joint Committee reported almost *verbatim et literatim* the instrument framed by the Democratic Convention, it is believed that this volume will not only record an important chapter in the history of Minnesota but will furnish an invaluable commentary on the fundamental law of the State. F. H. S.

PROCEEDINGS AND DEBATES

OF THE

CONSTITUTIONAL CONVENTION

OF MINNESOTA.

FIRST DAY.

MONDAY, July 13, 1857.

This being the day fixed by law of Congress, for the meeting of the Convention to form a Constitution and State Government for the Territory of Minnesota, preparatory to her admission into the Union on an equal footing with the original States, the Delegates elect assembled in the Hall of the House of Representatives in the Capitol at Saint Paul.

Mr. C. L. CHASE, Secretary for the Territory, and delegate from the county of Hennepin, called the Convention to order.

On motion of Mr. GORMAN the Convention adjourned until to-morrow at 12 o'clock, M.

SECOND DAY.

TUESDAY, July 14, 1857.

At twelve M. the Delegates proceeded to the Hall of the House of Representatives, pursuant to adjournment on Monday.

Mr. CHASE met the Delegates at the door of the Hall. He

said—Gentlemen: The Hall to which the Delegates adjourned yesterday, is now occupied by a meeting of the citizens of the Territory, who refuse to give possession to the Constitutional Convention.

Mr. GORMAN. I move the Convention adjourn to the Council Chamber.

The motion was carried, and the Delegates accordingly repaired to the Council Chamber in the west wing of the Capitol Building, where

Mr. CHASE called the Convention to order.

TEMPORARY ORGANIZATION.

Mr. J. R. BROWN, of Sibley, nominated Hon. HENRY H. SIBLEY of Dakota county, as temporary Chairman of the Convention.

Mr. MURRAY, of St. Paul, suggested that the Secretary should read the "Enabling act," before a temporary organization was effected.

Mr. BROWN waived his motion.

Mr. GORMAN referred to the fact that in three Territories, now States, the Constitutional Conventions were called to order by the Federal office holders; and that the course pursued in this instance, in recognizing the Secretary, was regular and sustained by precedents. The Secretary had a right to call the Convention to order, and receive the credentials of members; and he would move that the credentials be handed to the Secretary.

Mr. FLANDRAU, of Nicollet, said the proper course to pursue would be to form a temporary organization, and then appoint a Committee on Credentials on whose report the Convention would take action.

Mr. MURRAY withdrew his motion for the reading of the Enabling Act, when

Mr. BROWN renewed his motion that Hon. HENRY H. SIBLEY, be chosen temporary Chairman of the Convention.

The motion was carried by acclamation.

The CHAIRMAN, on taking the Chair, addressed the Convention as follows:

GENTLEMEN:—We have assembled under circumstances of peculiar solemnity. I thank you sincerely for the honor conferred by calling on me to act as temporary presiding officer. I hope all here assembled have a due appreciation of the responsibility of the position they occupy, and that our proceedings will be characterized by that dignity and decorum which will put to shame the imputation thrown upon us as "Border Ruffians."

The following *pro tem.* officers were then selected : Secretary, R. F. HOUSEWORTH, of St. Paul; Assistant Secretary, ——— HALL, of Hennepin ; Sergeant-at-Arms, F. ORTHWEIN, of Carver ; Messenger, HUGH GARROTY, of Dakota.

Mr. AMES, of Hennepin, called for the reading of the Enabling Act.

The Secretary was instructed to procure a certified copy of the act.

A copy was procured from the Executive Office and read to the Convention by the Secretary.

On motion of Mr. A. E. AMES, a Committee of five was appointed on Credentials. And Messrs. AMES, J. R. BROWN, NORTH, NORRIS, and THOMPSON, named as the Committee.

Mr. BROWN moved that the Rules of the House of Representatives, so far as applicable, be adopted for the government of the Convention.

Mr. MURRAY moved to amend by substituting the Rules of the Council.

Mr. GORMAN. I hope the gentleman will not insist on his motion. I need not give my reasons why. (Laughter.)

Mr. MURRAY. The reasons why the gentleman wishes not to adopt the Rules of the Council may be the very reasons why I should wish to adopt them. (Laughter.) I however withdraw my amendment.

Mr. BROWN'S motion was then adopted.

On motion of Mr. FLANDRAU, the roll was called by districts, and the delegates present came forward and deposited their credentials with the Secretary.

On motion of Mr. BECKER, the members of the Committee on Credentials were authorized to receive the Credentials of such other members as were in the city, or might arrive before the meeting of the Convention to-morrow.

The Convention then, on motion of Mr. MURRAY, adjourned until to-morrow at 12 o'clock M.

THIRD DAY.

WEDNESDAY, July 15, 1857.

The Convention met pursuant to adjournment.

The Journal of yesterday was read and approved.

COMMITTEE ON CREDENTIALS.

Mr. A. E. AMES, from the Committee on Credentials, reported that several of the delegates elect had not yet handed in their Credentials, and that the Committee asked for further time in which to make out their report.

Mr. BROWN. I move that the time be extended until Monday next. I will state that if the Committee can get their report ready before that time,of course they will submit it to the Convention. It is well known to gentlemen here that several delegates, who have been legally elected, have not received their certificates of election. It becomes necessary, therefore, to examine the Credentials in such cases, with more care than would otherwise be requisite.

The motion was agreed to.

STATISTICS.

Mr. BECKER submitted the following resolution, which was considered and adopted:

RESOLVED, That the Secretary of the Territory be requested to furnish the Committee on Credentials with an abstract of the returns of the elections of Delegates to this body, showing the names of members elected, and the votes cast in each Council district.

RULES.

The PRESIDENT *pro tempore*. The Chair will take this occasion to suggest that under the order of the Convention yesterday, the Rules of the last House of Representatives were adopted, so far as applicable, for the government of the Convention during its temporary organization, and as there are a large number of delegates who are not conversant with those Rules, and who have no opportunity of obtaining them, it may be well for the Convention to take some action in reference to the matter of placing it within the power of gentlemen to provide themselves with a copy of the Rules.

Mr. FLANDRAU. We have a Territorial Printer whose duty it is to perform such printing as may arise for the use of the Territory, in the vacancy between the sessions of the Legislature. I move, therefore, that he be instructed to print one hundred and fifty copies of the Rules of the last House of Representatives for the use of the Convention.

Mr. MEEKER. These Rules were made for a different body altogether, and will have to be changed or modified very considerably before they will be adapted to our use. It seems to me, therefore, that it would be better to appoint a Committee to revise and

prepare a code of Rules adapted to our wants before we have them printed.

Mr. BROWN. The Rules adopted for our government during our temporary organization, are not in the possession of the members of the Convention. It seems absolutely necessary that we should be as conversant with those Rules as possible. The only way we can procure them is through the Territorial Printer. They need not necessarily be published in book form. We may get them in slips, or in any way that will answer our purpose until a permanent organization shall be effected.

The motion was agreed to.

JOURNAL.

Mr. FLANDRAU. I would suggest whether it would not be well to have our Journals printed daily, and placed upon our desks. I make that as a motion.

Mr. BECKER. Would it not be well to designate the number?

Mr. BROWN. The Rules designate the number.

The motion was agreed to.

The Convention then, on motion of Mr. FLANDRAU, adjourned until to-morrow at 12 o'clock M.

FOURTH DAY.

THURSDAY, July 16, 1857.

The Convention met pursuant to adjournment at 12 M., and was called to order by the President.

On motion of Mr. BECKER, the reading of the Journal of the previous day was dispensed with.

In consequence of the room being still in an unfinished state,

On motion of Mr. SETZER, the Convention adjourned until to-morrow, at 12 o'clock M.

FIFTH DAY.

FRIDAY, July 17, 1857.

The Convention met pursuant to adjournment, at 12 o'clock, M.

The Journal of yesterday was read and approved.

Mr. SETZER moved that the Convention adjourn until to-morrow at 12 o'clock, M.

Mr. GORMAN. Before the question is put on that motion, I should like, with the consent of the Convention, to make one or two remarks. I see going the rounds of the press of this Territory, statements in regard to the conduct of the members of the Constitutional Convention which has met in this hall; and I wish, with the permission of gentlemen, to make a distinct statement of facts, for the purpose of placing us right before the country.

The members of the Constitutional Convention met in the Hall of the House of Representatives, at 12 o'clock, as near as may be, on the 13th day of July, 1857. A motion was made to the person who called the Convention to order—he being a member of the Constitutional Convention, Secretary of the Territory, and Acting Governor—to adjourn by a member of the Convention, whose seat never has been, and perhaps never will be, contested—*which motion was in order, and took precedence of all other motions, according to well established parliamentary law.* That motion was distinctly put, in the presence of nineteen-twentieths of the members elected to the Constitutional Convention. It was distinctly voted for, by a large and overwhelming majority of that Convention, by the sound. It was distinctly voted against by some fifteen or twenty members of the party not acting with us here, judging from the direction in which the sound came. No division was called for—no objection was made to our action. The Convention did, on the 13th of July, at 12 o'clock, adjourn—a fact as incontestible and incontrovertible as any fact can be fixed by a transaction—and the Convention met again in pursuance of that adjournment, at the door of the Hall of the House of Representatives. The person who had called that Convention to order—a member of the Constitutional Convention, the Secretary and acting Governor of the Territory, having charge of the Capitol, and having of right, the keys of that Hall—met the Convention at the door, inside that Hall. He announced that the room to which we had adjourned as lawfully and legally as ever the Congress of the United States or any other deliberative body adjourned, was in possession of a meeting of a body of the citizens of this Territory; whereupon a motion was made to him by the same person by whom the original motion was made to adjourn, that the Convention adjourn to the Council Chamber, in the Capitol, at the Seat of Government of the Territory of Minnesota. That motion was put—it was carried—and the Convention proceeded to this room. They effected a temporary organization, and they are here now.

Why did we thus meet at the door of the Hall of the House of Representatives? The world must know that we met there be-

cause the members of the opposite party had gone into that Hall or Capitol building at 12 o'clock on Sunday night. How many or how few, I presume no person here desires to state, because they do not know. The fact that they did thus go there has been distinctly denied by one of the daily Republican papers of this city, and as distinctly admitted by another of the same party. That it is notoriously true that they did meet at 12 o'clock on Sunday night, in that Hall, or in the Capitol, this whole Territory can be, and must be, and will be, satisfied. It is a fair supposition from the tone of the public press, that it was with a view of preventing a forcible possession, upon our part, or the part of others, or with the view of taking forcible possession themselves, or to put the best face upon it, that it was with a view of being there upon the ground. But, whatever the motives which governed their action, it is a fact that at 12 o'clock on Sunday night, that Hall or the Capitol was taken possession of by a body of citizens of Minnesota, claiming to be, themselves, of the Constitutional Convention, who remained there without organization until 12 o'clock on Monday.

Now to the point: After the Convention had adjourned at 12 o'clock on the 13th instant, there was a body of its members, no doubt properly elected, but not a quorum, who stayed in the Hall when the Convention adjourned, and by force, by usurpation, or by their own volition, without order, without regularity, contrary to that adjournment, assumed to perfect an organization of the Convention. Sir, if there had been two-thirds of the Convention there, after it had adjourned, they had no right to stay there and organize. It was, therefore, an act of usurpation, without precedent, without right, without the sanction of parliamentary usage, contrary to any custom which has ever obtained in this or any other country.

Sir, if the scenes which have been transacted in the American nation during the last eighteen months are to go on, deliberative bodies will become mobs, and the world will so regard them. This Constitutional Convention met at the time and place prescribed by law, and I want it distinctly understood and placed upon record, that we are now in session in this Hall, in obedience to regular adjournments made in accordance with the forms and rules, and parliamentary customs of all the deliberative bodies upon the American continent. There can be no doubt, there is to be no doubt upon the subject. And if we have to go before the country to defend our organization upon the ground of the regularity of that adjournment, there is but one mind, but one voice,

among the members present. I give notice to the people of the Territory that it was a fair, parliamentary, legal adjournment of the Constitutional Convention. They who organize, either temporarily or permanently out of time, out of place, even though they have the majority, are irregular, without authority, without precedent, and unjustifiable before the country.

Mr. PRESIDENT, I will not go into the details of our action further. If we have elected a majority of what are termed Democrats, by the votes of the people, I trust we shall act in accordance with the course we have pursued. Further than this, I do not propose saying to-day. It would be out of time, perhaps out of place, to attempt to go beyond that which we have done in accordance with parliamentary usage and parliamentary custom. Whatever is to be done hereafter, I will close by saying that "sufficient unto the day is the evil thereof."

Mr. SETZER. I regret that the gentleman from St. Paul has seen fit to notice the attempts made to defend the course of those sitting in the other wing of the Capitol. The falsehoods published in defence of their course are so well understood as to make it unnecessary to speak of them even in private conversation, and I think it is giving them too much consequence, even to allude to them in this Convention. I renew the motion to adjourn.

The motion was agreed to, and the Convention adjourned until to-morrow at 12 o'clock, M.

SIXTH DAY.

SATURDAY, July 18, 1857.

The Convention met at 12 o'clock M., pursuant to adjournment.

The Journal of yesterday was read and approved.

The Hall being still in an unfinished state,

On motion of Mr. BECKER, the Convention adjourned until Monday next, at half-past two o'clock, P. M.

SEVENTH DAY.

MONDAY, July 20, 1857.

The Convention met pursuant to adjournment at half past two o'clock, P. M., and was called to order by the PRESIDENT, *pro tem.*

On motion of Mr. BECKER the reading of the Journal of Saturday was dispensed with.

On motion of Mr. BECKER, the Convention adjourned until two o'clock P. M. to-morrow.

EIGHTH DAY.

TUESDAY, July 21, 1857.

The Convention met pursuant to adjournment, at 2 o'clock, P. M.

The Journal of yesterday was read and approved.

The PRESIDENT *pro tempore* announced the first business in order to be the Report of the Committee on

CREDENTIALS.

Mr. A. E. AMES. The Committee on Credentials are not fully ready to report at this time. If it is the pleasure of the Convention, they will report as far as they have gone, but there is a matter before them still under consideration, and they would prefer not to report until to-morrow.

Mr. BECKER. I think this matter had better not be disposed of until there is a further attendance of members. Gentlemen have not yet come in from their dinners. I move that the Convention take a recess for fifteen minutes.

The motion was agreed to.

After an interval of fifteen minutes, the Convention was again called to order.

The PRESIDENT *pro tempore* announced the report of the Committee on Credentials to be the business in order.

Mr. A. E. AMES again asked in behalf of the Committee, further time to make up their report.

Mr. BECKER. The members of the Committee on Credentials are not all present. I am confident if they were, they would have something to present to the Convention. I hope the matter will not be acted on until they all come in.

Mr. SETZER. The Chairman of that Committee informs us that he has no report to make. Unless the gentleman from St. Paul (Mr. BECKER,) has something to present, I do not see the necessity of waiting. I think the Committee have worked faithfully, and I will move that they be allowed until to-morrow to report.

The motion was agreed to.

ELECTION OF TEMPORARY OFFICERS.

On motion of Mr. BECKER, the following temporary officers were elected, those previously elected to the same places having declined to serve:

JOSEPH TUSAROW, Sergeant-at-Arms; WILLIAM SABURY, Assistant Sergeant-at-Arms; JOHN BELL and FRANK PEIFNER, Messengers.

Mr. MURRAY moved that the Convention adjourn.

A Member moved to amend so as to adjourn until to-morrow at 12 o'clock, M.

The amendment was disagreed to.

The Convention refused to adjourn.

Mr. GORMAN moved to send the Sergeant at-Arms after the absentees.

The motion was disagreed to.

RESOLUTION OF THANKS.

Mr. BUTLER. I think there is an acknowledgment due on the part of this Convention to the gentleman who has had charge of the fitting up of this Hall. I therefore move that the thanks of the Convention be tendered to Mr. BECKER for the substantial and elegant manner in which he has fitted up this Hall.

Mr. MURRAY. I trust the gentleman will withdraw that motion until the gentleman who has charge of fitting up the Hall has furnished us with chairs. (Laughter.)

The resolution was unanimously adopted.

On motion of Mr. A. E. AMES, the Convention then adjourned until to-morrow, at 12 o'clock, M.

NINTH DAY.

WEDNESDAY, July 22, 1857.

The Convention met pursuant to adjournment at 12 o'clock M.

The Journal of yesterday was read and approved.

CREDENTIALS.

Mr. BROWN, from the Committee on Credentials, presented the following report.

The Committee appointed to examine the Credentials of members elect to this Convention respectfully report:

That the following certificates of election have been presented, to which

there are no contests, or no dispute whatever as to the right of the several persons named to take seats as members.

First Council District.—Wm. Holcombe, James S. Norris, Henry N. Setzer, Gould T. Curtis, Charles G. Leonard, Newington Gilbert, Charles E. Butler, R. H. Sanderson.

Second Council District.—George L. Becker, Moses Sherburne, D. A. J. Baker, Lafayette Emmett, Wm. P. Murray, W. A. Gorman, Wm. H. Taylor, Jno. S. Prince, Patrick Nash, Wm. B. McGrorty, Paul Faber, Michael E. Ames.

Fourth Council District.—Edwin C. Stacey.

Fifth Council District.—Daniel Gilman, H. C. Wait, J. C. Shepley, Wm. Sturgis, Jno. W. Tenvoorde.

Fifth Council District.—W. W. Kingsbury, R. H. Barrett.

Sixth Council District.—H. H. Sibley, Robert Kennedy, Daniel J. Burns, Frank Warner, Wm. A. Davis, Josiah Burwell, Henry G. Bailly, Andrew Keegan.

Seventh Council District.—James McFetridge, J. P. Wilson, J. Jerome, Xavier Cantell, Joseph Rolette, Louis Vasseur.

Eighth Council District.—James C. Day.

Tenth Council District.—Joseph R. Brown, C. E. Flandrau, Francis Baasen, Wm. B. McMahan, J. H. Swan.

Eleventh Council District.—Alfred E. Ames.

Your Committee would further state that the following certified copy of an abstract of the vote polled in the Third Council District, upon which Messrs. B. B. Meeker, Wm. M. Lashelles, C. A. Tuttle, and C. L. Chase claim to be duly elected, was referred to the Committee for examination, viz:—

At an election held at the City Council room, in the city of Saint Anthony, in Saint Anthony Precinct, in the county of Hennepin, and Territory of Minnesota, on the first day of June, one thousand eight hundred and fifty-seven, the following named persons received the number of votes annexed to their respective names, for the following described offices, to wit:

B. B. Meeker received for Delegate to the Constitutional Convention, five hundred and twenty-four votes.

Samuel Stanchfield received for Delegate to the Constitutional Convention, four hundred and ninety-five votes.

Richard Fewer received for Delegate to the Constitutional Convention, four hundred and ninety-six votes.

Wm. M. Lashelles received for Delegate to the Constitutional Convention, four hundred and ninety-seven votes.

C. A. Tuttle received for Delegate to the Constitutional Convention, five hundred and nine votes.

C. L. Chase received for Delegate to the Constitutional Convention, five hundred and twenty-one votes.

J. H. Murphy received for Delegate to the Constitutional Convention, from the Council District, four hundred and ninety-six votes.

S. W. Putnam received for Delegate to the Constitutional Convention, from the Council District, four hundred and ninety-one votes.

D. A. Secombe received for Delegate to the Constitutional Convention from the Representative District, four hundred and seventy two votes.

D. M. Hall received for Delegate to the Constitutional Convention, from the Representative District, four hundred and eighty-five votes.

L. C. Walker received for Delegate to the Constitutional Convention, from the Representative District, five hundred and three votes.

P. Winell received for Delegate to the Constitutional Convention, from the Representative District, five hundred and twelve votes.

Winell received for Delegate to the Constitutional Convention, from the Representative District, two votes.

Lashelles received for Delegate to the Constitutional Convention, from the Representative District, two votes.

C. Chasse received for Delegate to the Constitutional Convention from the Representative District, one vote.

F. Fuker received for Delegate to the Constitutional Convention from the Representative District, one vote.

John Weersinger received for Delegate to the Constitutional Convention, one vote.

H. Winells received for Delegate to the Constitutional Convention, one vote.

Walker received for Delegate to the Constitutional Convention, one vote.

Some White Man received for Delegate to the Constitutional Convention, one vote.

Putnam received for Delegate to the Constitutional Convention, one vote.

Certified by us,

JAMES B. GILBERT, MOSES W. GITCHELL, STEPHEN COBB, } Judges of Election.

Attest:

H. B. TAYLOR, DAN. M. DENSMORE, } Clerks of Election.

OFFICE OF REGISTER OF DEEDS, Hennepin Co., M. T.

I certify that the above written, is a full, true and accurate copy of the original, as it appears on file at this office.

GEO. W. CHOWEN, Dep. Reg. Deeds, Hennepin Co., M. T.

Minneapolis, June 15, 1857.

Thus we find that B. B. Meeker, P. Winell, C. L. Chase, C. A. Tuttle, L. C. Walker, and Wm. M. Lashelles, received the highest number of votes in the District, and because, as your Committee learns, there was no distinction made between delegates for the Council District and delegates for the Representative District, the certificates of election have been withheld from B. B. Meeker, C. L. Chase, C. A. Tuttle, and Wm. M. Lashelles. The Enabling Act authorizes each Representative District existing within the limits of the proposed State, to elect two delegates for each Representative to which said District may be entitled, according to the apportionment for Representatives to the Territorial Legislature. The precinct of St. Anthony constitutes the 3d Council District, which elects one member of the Council, and two members of the House of Representatives. It is a Representative District entitled to elect six Delegates to the Convention, without any connection with any other portion of the Territory. There was no election in the District at any other point than at the place designated by law for opening the polls for the St. Anthony precinct, in the city of St. Anthony. What reason could possibly exist for a distinction as to whether the Delegates were to represent members of the Council or of the House of Representatives? All were elected to perform the same duty, and to meet in the same Hall. Neither justice nor propriety required any distinctive difference upon the ballots of voters, and therefore, no doubt can exist of the right of the six persons having the highest number of votes at the election, to take their seats as members of the Constitutional Convention.

Even admitting that, as is the case in many of the Districts, several counties, or two or more Districts for the election of Representatives had been included within the 3d Council District, which would make it proper to permit a distinction to be made between Delegates representing the Council District entire, and those representing the several Districts within that Council District, which were

entitled to elect Delegates—even in that case, the person or persons obtaining the highest number of votes *in the Council District* would be entitled to represent that Council District in Convention. The only object in making a distinction is, that the voters throughout the Council District may have an opportunity of participating in the choice of *all the Delegates* that are to represent the District, and every individual is free to select the persons for whom he wishes to vote. It is therefore but right and just to suppose that the person having the highest number of votes in the District, is entitled to a seat, for the simple reason, that the entire District should be supposed to cast more votes than any subdivision within that District. The will of the majority as clearly expressed through the ballot box, should be paramount, and that majority can only be determined by the votes polled. How ridiculous it is to suppose that a man is entitled to represent a Council District by virtue of having received fifty votes, in preference to another who received one hundred votes in a subdivision of the same District.

But as there were no subdivisions of the Third Council District, and as there was but one precinct opened within that District, there cannot be the remotest reason for making a distinction between the Representatives of the Councillor and those of the members of the House, and we therefore believe that B. B. Meeker, C. L. Chase, C. A. Tuttle, and Wm. H. Lashelles, are legally elected and entitled to take their seats in this Convention:

Mr. O. W. Streeter presented the following abstract of the Houston county vote, upon which he claims a seat in the Constitutional Cnvention.

Upon examination of the Poll Lists of the several Precincts of the county of Houston, Minnesota Territory, it was ascertained that C. A. Coe received three hundred and twenty-nine (329) votes. Boyd Phelps received three hundred and six (306) votes. E. Mackintire received one (1) vote. James C. Day received forty-nine (49) votes. J. A. Anderson received thirty-seven (37) votes. T. H. Conniff received two (2) votes. O. W. Streeter received three (3) votes for Delegate at large. C. W. Thompson received four hundred and forty-four (444) votes. M. G. Thompson received three hundred and forty-seven (347) votes. J. A. Anderson received four hundred and four (404) votes. J. A. McCan received four hundred and forty-nine (449) votes. O. W. Streeter received three hundred and seventy-five (375) votes. T. H. Conniff received two hundred and sixty-eight (268) votes. E. Mackintire received three hundred and forty-one (341) votes. J. C. Day received three hundred and seventy-seven (377) votes. J. B. LeBlond received two hundred and two (202) votes. L. D. Seefridge received ninety-one (91) votes for Delegate for Houston county.

We, the undersigned, do hereby certify the above to be a correct abstract of the vote in Houston county, M. T., on the first Monday, the 1st day of June, A. D. 1857, for Delegates to the Constitutional Convention to frame a Constitution.

JAMES A. McCAN, Reg. of Deeds.

JACOB WEBSTER, JAMES C. DAY, } Justices of the Peace.

I hereby certify the above to be a true copy of the abstract of the vote in this county for the purpose above specified.

JAMES A. McCAN, Reg. of Deeds,
and Clerk of the Board of Co. Com.

This case is similar to that of the Third Council District, with this difference, that the county of Houston is connected with the county of Mower for the election of Councillors, while each of these counties form a representative sub-division of the Eighth Council District.

The Register of Deeds of Houston county, previous to the election, caused notices of the election to be posted in the several precincts, of which the following is a copy:

"Notice is hereby given that on the first Monday, the first day of June next, an

election will be held in the town of Caledonia, in Caledonia precinct, Houston county, to elect five Delegates to the Constitutional Convention to frame a Constitution, which election will be opened at 9 o'clock in the morning, and continue open until 4 o'clock in the afternoon of the same day.

(Signed) JAMES A. McCAN,
May 19th, 1857. Clerk of the Board of County Commissioners.

As the counties of Houston and Mower send one Councillor, and the county of Houston two, and the county of Mower one, members to the House of Representatives, properly the counties of Houston and Mower together had the right to send two, the county of Houston four, and the county of Mower two members to the Constitutional Convention.

By the notice above inserted it will be seen that the Register of Deeds directed an election in Houston county, for five Delegates, being four for the two Representatives to which the county was entitled, and one of the two Delegates to which the counties of Houston and Mower were entitled in virtue of the Councillor allotted by law to these two counties, leaving one of the Delegates from the Council sub-division, and two from the Mower county Representative sub-division to be elected by the county of Mower.

Therefore, by the position assumed by the Register of Deeds of Houston county *previous* to the election, there was no distinction necessary between the members elected, because they were all to be elected from the same county, and therefore, the persons having the highest number of votes in the county of Houston to the number of five, were undoubtedly entitled to certificates of election, and yet the same Register of Deeds who directed the election to be held without designating any distinction, having himself by an arrangement with Mower county taken away all necessity for a distinction, refused to grant certificates to the five members having the highest number of votes, and gave a certificate to a person having three hundred and twenty-nine votes, and refusing certificates to two persons having a greater number of votes.

Upon these grounds Mr. O. W. Streeter claims a right to a seat in this Convention, he having received 378 votes, as shown by the returns of the election in Houston county, while Mr. Coe, the person who received the certificate, received but three hundred and twenty-nine votes in the county. Your Committee being satisfied of the legality of the election of Mr. O. W. Streeter, would recommend that he be admitted to a seat in this Convention.

Your Committee also have unofficial evidence that Mr. Thomas Armstrong has received a majority of from forty to fifty votes for Delegate to this Convention from the county of Mower, but owing to the want of regularity in the evidence of that fact, your Committee are not at present prepared to report upon the case, but will be prepared to do so as soon as official evidence can be obtained, which will be in a few days.

Your Committee having, therefore, unquestionable official evidence laid before them of the legal election of one-half of the members elect to the Constitutional Convention, and having also evidence which is not deemed official of the election of another member, making in all a majority of all the members elected, would at the same time state that from the official returns from all the different Council Districts handed to your Committee by the Secretary of the Territory, it is clear that the members having seats in this Convention represent a majority of 1635, of the popular vote of the Territory.

All of which is respectfully submitted.

A. E. AMES,
J. S. NORRIS,
JOSEPH R. BROWN. } Committee.

On motion of Mr. DAVIS, the report was accepted.

Mr. SETZER moved that the recommendation of the Committee relative to the Delegates from St. Anthony and Houston, be adopted.

Mr. SHERBURNE. If I understand the motion of the gentleman from Washington County, it is that the report be accepted so far as it relates to the Delegates from St. Anthony and Houston. I would suggest to the gentleman that if there are objections to the adoption of the report entire, he should present his motion in a form which will point out the exceptions.

Mr. SETZER. The gentleman did not understand my motion. The Committee report the Credentials of the Delegates who have presented them. They also submit certain recommendations relative to the delegates from St. Anthony and Houston. Now I propose to adopt these recommendations, so that when the members of the Convention come to be sworn in, there shall be no question raised with regard to these delegates.

Mr. SHERBURNE. I withdraw all opposition to the gentleman's motion.

On motion of Mr. BROWN, the Report of the Committee was then adopted, and 15,000 copies ordered to be printed.

CONDUCT OF THE REPUBLICANS.

Mr. FLANDRAU. I rise to offer to this Convention a resolution and to move its adoption. I shall read the resolution, and propose to make a few comments upon it before making such motion.

Mr. F. then read the Resolution, as follows :

WHEREAS, There is official evidence, from the Report of the Committee on Credentials, that there is a majority of the legally-elected members to the Constitutional Convention who claim and are entitled to seats in this Convention ; and

WHEREAS, The members ascertained to be legally elected from the official documents before this Convention, represent more than sixteen hundred majority of the popular vote of the Territory ; and

WHEREAS, There is now a body of men who have taken possession of one of the Halls of this Capitol, and call themselves the Constitutional Convention, without any legal authority or right, although some of those connected with that assemblage may be entitled to seats in this Convention, but who have not seen proper, as yet, to present their credentials or to attend the meetings of this body, since the regular adjournment of the Convention on Monday, the 13th instant ; therefore

RESOLVED, That the assemblage of persons now occupying the Representatives' Hall of this Capitol, styling themselves "The Constitutional Convention," is without the authority of law or of parliamentary usage, and revolutionary in its character, and therefore should not be recognized by the electors of this Territory, nor by the officers of the General or Territorial Government.

RESOLVED, That a copy of the above preamble and resolution, together with a copy of the Report of the Committee on Credentials, be forwarded to the President of the United States, each of the heads of the Departments of the General Government, each of the members of the Senate and House of Representatives of the United States, and to the Governor, Secretary, Marshal, Librarian, Auditor and Treasurer of the Territory of Minnesota.

MR. PRESIDENT:—In offering this resolution, and in the remarks I shall make in support of it, my object will be to vindicate before the people of this Territory, the people of the United States, and I may add, the people of the civilized world, the position occupied by this Constitutional Convention. Let it be remembered that the trust which has been reposed in this body is one of peculiar sanctity and importance; let it be remembered that to the people—the constituency of this Territory—we are responsible for our action. Let it be remembered that there is a deep and abiding interest felt and manifested throughout this whole country in the action that shall be taken by this body, and let it be remembered that the members present in this Convention represent a very large majority of the popular vote in this Territory.

With these considerations before us it behooves us to permit nothing to pass in this Convention relative to its organization, the propriety of the conduct of its members, or any other matter which the people have an interest in and a right to be informed upon without supplying them with a full and just account of it through the official medium of this floor.

Now, sir, when I say the people of the United States, as well as the people of this Territory, have their eyes upon us, I do not make an assertion which is at all exaggerated. The coming into the Federal Union of a new State is a matter of such solemn importance, that the deepest solicitude is always manifested by the whole country upon the character of the institutions that are to be established in that State. The eyes of civilized Europe, also, jealous of the prosperity and progress of this American Confederacy and the triumphant advance of Democratic institutions, will also be fixed, with anxious gaze, upon the addition to its power of another sovereign State.

Mr. PRESIDENT: The language of this resolution charges, upon certain refractory members who have been elected to this Convention, serious delinquencies and acts of misconduct; and it becomes the duty of each member of this Convention to present to his constituents his actions, as contrasted with those of the opposition, to enable them to make up their judgments deliberately, before the hour arrives for them to sit in judgment upon the fruits of our labors.

I charge here, Mr. PRESIDENT, that there has been an unscrupulous and determined combination throughout this Territory, from the passage of the Enabling Act, by those who style themselves the Republican party, to carry this Convention, to obtain a supremacy here, to impress upon the Constitution, that shall be submitted to the people for their ratification and sanction, certain features obnoxious in themselves, repudiated by the people, and peculiar only to that political organizatien ; and let me state that in making this assertion that the subsequent conduct and acts of that party fully sustain me, as I shall endeavor to demonstrate to this Convention.

It was not my good fortune to be able, during the canvass and election, to be much among the people. But, Sir, with the small opportunities for observation that were allowed me, confined principally to my own district, I do not hesitate in saying that there was, in certain counties, more illegal practices imposed upon the people to defeat the election of the Democratic delegates to this Convention, than ever happened within the same area of Territory in the United States, or any other country. Voters were imported into some of these counties in wagon loads, to assist the Republicans in carrying the election. And, I tell you, that gentlemen who are now holding seats on the opposite side of this Capitol, who differ with me in politics, will agree with me in making this assertion.

After this election was over it became pretty generally understood that the Democracy had carried a majority of the delegates throughout the Territory. This it was determined by the opposition must be defeated. The will of the people had been expressed by a large majority. In the popular vote they had succeeded in electing delegates to carry out their wishes and to frame a Constitution which would accord with their views of a proper and wise political government. The opposition finding themselves thwarted in their anticipated success, had to resort to other measures to circumvent and defeat the will of the people as expressed through the ballot box. And, sir, what were they? Who, I ask you, are occupying seats on the other side of this Capitol? Men, I answer, who have been repudiated by the people at the polls.

How does it happen that these men assume to come in and deliberate in the Councils of the Constitutional Convention of Minnesota? They have not been sent here by the only principal authorized to depute them—the people. They have been discarded at home, and why then do they assume to sit there? It has been through the trickery and chicanery of certain officials. It will be said that they have *prima facie* the right to take that position, because forsooth, they have received credentials from the officer

whose duty it is to certify to the members having the greatest number of votes. I answer, sir, by presenting these facts: In the first place it was so palpably, so manifestly wrong, that the very members of the opposition would delight in the opportunity—by a contest—to relieve themselves of the odium of the position they occupy and have placed their party in, by expelling those members from that house. And, sir, there exists a perfect answer to the *prima facie* character of right claimed for these credentials, which leaves no apology for the disreputable position that factious body have placed themselves in by admitting them to seats among them. It is this: the people of that District were so outraged when it was made public that their wishes, as expressed through the ballot box, had been attempted to be defeated by an official of their own creation, that they insisted such a man should be removed from office. Charges were preferred against him for misconduct in office, before the proper tribunal; this man received a fair and impartial hearing. He made his defence there by his Attorney, and it was finally adjudged against him that he had been guilty of official misconduct; that he had violated his sworn duties as an officer, and had attempted to subvert the will of the people. This judgment, I say, removes from these papers styling themselves credentials upon their face, all authority which they might otherwise carry with them.

I shall not go into the reasons of the opposition for the course they have pursued, the matter has been fully discussed by the public press. The misconduct of this officer has been generally admitted by all parties and persons, and no one has yet been bold enough to attempt an argument in his favor or palliation except himself. It has been admitted every-where that the deed was done deliberately and calmly. But, sir, I rejoice to be able to send back word to the people that this design has been frustrated by the integrity and firmness of the delegates, who came here determined that their expressed will should prevail.

Again, let us look upon the action of that body, let us scrutinize it, and see whether there is any consistency in their action; let us see whether they have not attempted, by subverting the will of the people, to obtain the ascendency in the Convention at all hazards. In order to the chapter in their history that I now propose to discuss, I must refer, somewhat in detail, to the facts connected with the election of this St. Anthony delegation. The district was entitled to send six delegates to the Convention; it was composed of one Council District, which elected one Councillor and two Representatives to the Legislature within precisely the same area

of country, with no political subdivisions, which in any manner made the district represented by the Councillor in any way different from that of the Representatives; they received votes from the same constituency ; these votes were polled at one place, and one place only, in the entire district. They were entitled to six delegates to this Convention without the possibility of making a distinction in the manner of their election. Notwithstanding this, the officer making out the credentials created the *necessity* of a distinction for the purpose of awarding certificates to the parties whom he desired should obtain seats.

Now, Mr. PRESIDENT, had the party who have received these persons into their body been consistent, they would have adopted the same principle throughout, in the rejection of all members presenting themselves there who had been elected in a similar manner. Had they done this there would have been less to complain of. It would have looked at least as if there was good faith in the transaction. It would have removed the argument that it was done to cheat the people. But sir, such has not been the case ; there are members sitting in that Convention—and I am told, and believe, that the gentleman who presides over that body, is one of them—who were elected in precisely the same manner. Why, sir, the thing is so manifest that it is insulting to the intelligence of the people of this Territory to argue it. If men's motives are to be judged by their actions, it is an insult, I reiterate, to argue before the tribunal who will sit in review upon this Convention.

A similar case has occured in another portion of this country ; in a district in the Southern portion of the Territory, a member was elected who was a Democrat ; the officer whose duty it was to give him his certificate of election, was at first a little more conscientious than the one I have been critising ; he averred a doubt, and deferred action until the candidates should arrive at the Capitol, and a proposition was made to allow the matter to be submitted to, and determined by the Convention. But this officer had not been in St. Paul more than a few hours before, by some mysterious appliances, his scruples were removed and the certificate passed into the hands of the Republicans. Sir, it is not necessary to waste time in the discussion of the motives of men whose acts stand out emblazoned upon the record in such characters.

But, sir, the disgusting detail does not stop here. In the county of Hennepin, the Register of Deeds whom we first had under consideration, to in some way cover up his tracks in the course he had taken towards the St. Anthony delegation, made out and offered to a Democratic delegate, a certificate of election, which

for some reason, best known to the gentleman he declined to receive. What, sir, I ask, is the inference to be drawn from this act? Why, one would naturally suppose that the Register had decided that the party to whom he offered the certificate had received the highest number of votes, and was duly elected; and that his opponent was duly defeated. But, sir, it would seem that no such thing was the case; that the Register did not deem this delegate elected any more than he did the Republicans, whom he knew were not, and the body in session on the other side agreed with him. For, sir, I am informed, and believe that the delegate to whom he refused the certificate, and at first decided was not elected, is now holding a seat on the other side of the Capitol, under the sanction of that meeting. Whether he is accredited there by this officer or not, I have not felt it necessary to investigate. I do not think such palpably improper conduct endorsed by that body, requires investigation. I merely state the fact, and let it speak for itself. It is plainer and stronger than any argument of mine can make it; it will go to the people of this Territory, carrying conviction on its face, which requires no support. And the party which has committed this outrage will be entirely unable to meet or answer it; its force will crush them.

Mr. PRESIDENT: Let me ask why all this has been done; these men have found, on coming here, that in order to make out their majority, it was necessary to do these things. They have been instructed from abroad that Minnesota must have a Republican Constitution, and in obedience to the will of their masters, they have, finding it impossible to do it regularly, and having been rebuked through the ballot-box, they have created the material and machinery to carry it over the people. You see the result of their councils and their action.

Such was the condition of things as found when the members of this Convention met at St. Paul, previous to the time of its convening.

The usual time for the assembling of these bodies, when no time is fixed by law, is 12 o'clock at noon of the first day. Propositions had passed between members elect of different political sentiments, in which it was ascertained that this was assented to by all. The Democratic Delegates, supposing that this thing was in good faith, though not caring whether it was or not, so far as their position was concerned; attended to their own concerns, eat their breakfasts, and repaired to the Capitol at the hour designated. They found that the Hall had been in the possession of the opposition delegates. Had it been in possession of only duly elected members,

objections would not have had the same force as they now carry. But, sir, when I came into that Hall, I saw men occupying seats with their names on them, and as if they held them by pre-emption. The well known fact of their taking possession of the Hall prior to the time the Convention was to assemble, shows a determination on their part to have a prior possession, a prior organization, and to carry out the views I have already stated, at all hazards. Such we found them when we got there ; we entered the Hall in an orderly manner, and took our seats ; we were preceded by the Secretary of the Territory, who held the position not only as Secretary of the Territory, but was a legally elected member of the Constitutional Convention.

Now, sir, when you discuss the propriety of the Secretary of the Territory calling the Convention to order, and of his being the proper officer to perform that duty, the position is tenable by all precedents and usage ; but when you add to it, that he was a member of the Convention, possessed of all the rights and privileges of any other member, it seems to me that his right to call the Convention to order certainly was equal to that of any other member; and, in consideration of his official character as Secretary of the Territory, upon the authority of precedent, we were justified in supposing that he had a superior right. But, sir, leaving all that out of the question, he took the chair first: the fact that he did take it before any other member of the Convention, cannot, and I think will not, be disputed, by any member who desires to speak the truth. When there, ordinary propriety and ordinary decency, in a body of men who desired to act in a courteous, orderly and parliamentary manner, would have permitted him to have performed the office, make his remarks, or whatever he took the chair for. Well, sir, he called the Convention to order ; and when he did it—I trust there is no one so recreant to truth as to say that there was not a large majority of the Convention present–a motion to adjourn was made by a member of the Convention, until noon of the next day ; that motion was put, and there was a large vote in the affirmative—a very considerable number also voted in the negative, including in the whole vote cast manifestly more than two-thirds of all the members elected. No division was called for, and nothing transpired to prevent the final executionof the order of the Convention to adjourn ; the vote was declared by the chair, an the Convention adjourned.

Now during this proceeding another member stepped into the chair from a position where he was posted for that purpose. Had not Mr. Chase had the chair, this gentleman would have had as

good a right there as any one else, but with the chair already occupied by a person entitled to all the privileges that he possessed, it was indecorous to attempt to obtrude himself upon the Convention. But he did, in disregard of decorum, and put a motion that some other member be elected temporary chairman. Now, sir, that proceeding was out of order, for the reason that he had no right to the position, it being already occupied, besides the motion was made during the pendency of another motion which was properly made, and properly in the possession of the House. I therefore insist that this action, being irregular, was void; the motion to adjourn was regularly acted upon then by the Convention, and the same adjourned. I contend, sir, that when there are a sufficient number of persons present, any motion that is put from the chair, if it receives the vote of only one member, no one voting in the negative, and no division being called for, is as fully carried as if the roll had been called, and the vote of the majority recorded. More than half the legislation of the country is done by the votes of some one or two members, who are interested in the subject matter under consideration, while other members are attending to their own affairs.

Now, sir, for the effect of that adjournment: When it had taken place there was no Constitutional Convention in session, and I say that no members of that body had the right to attempt, or presume to do any business belonging to the Convention until its assembling at the proper time. The act would be revolutionary, improper, irregular, indecent, and in every way reprehensible by all order loving persons; but such was their action; they carried out the programme they had originally matured to a very disreputable extent; they retained possession of the Hall, and went on with a pretended organization. They maintained it day after day, and night after night, with the determination of fulfilling their mission, right or wrong, and by violence if necessary.

At the proper hour, the Constitutional Convention, pursuant to adjournment, repaired to the door of the Hall, with the intention of proceeding with the business of that body; but were met by the Secretary of the Territory, and were informed by him that the Hall was in the possession of men who evinced a determination to hold it at all hazards. Very prudently, and desiring that no act should be committed by the Democratic Party, if I may so term it, which should reflect upon them as men of order, as gentlemen, and as men who understood the execution of the duties assigned to them by their constituents, a motion was made that the Convention adjourn to re-assemble in the opposite end of the Capitol. The motion was

carried, and the Convention has been in session in this Hall from day to day since that hour until the present. What is going on in the other side of the Capitol, is in contravention of all regularity and propriety, governing deliberative bodies of that character.

Now, sir, with the remarks I have made I am entirely satisfied that the Committee on Credentials have been diligent in investigating the subject that was committed to them; they have reported here that fifty-four delegates have been duly elected by the people, who claim seats here; that they represent over sixteen hundred majority of the popular vote of this Territory; and that there is one other delegate who they have unofficial evidence has received a majority of the votes of his district, giving us half the delegates elect to this Convention, and a majority, if it shall be ascertained by the future investigations of that Committee that the evidence they have received is well authenticated.

With these facts before us and before the people, and with the conduct of that body brought in contrast with that pursued by us, I ask you, Mr. PRESIDENT, if there is a man within the sound of my voice who does not admit that we have done our duty to our constituents, and that they will do their duty towards us.

It cannot and will not be doubted that the Democratic party of Minnesota, through the action of their Representatives in this body, have planted themselves upon a platform on which they will be surrounded by a larger number of the people of Minnesota than has ever been seen enlisted in any cause which has excited the public mind. And let me tell you there never has been an election in this Territory in which the Democratic party have not triumphed; they have sent men here, this time, who will carry out their wishes, and who will return to them the result of their labors in such a manner as will, of right, demand ratification at their hands. And, sir, I feel that that demand will be responded to from all quarters of the country with cordiality and cheerfulness. With these comments I move the adoption of the resolution.

Mr. SETZER. Previous to the vote being taken on the question, I desire in brief to state my views upon the subject of this resolution. As the gentleman from Nicollet (Mr. FLANDRAU) has said, the Republican party have from the beginning made their boasts that they would carry this Convention, by fair means if they could, by foul means if they must. Their acts fully bear out the assertion.

The gentleman who preceded me has stated several instances of the recklessness of the Republicans in the accomplishment of their object, and I will add one or two more. Previous to the election, they brought here from abroad abolition speakers, to induce the

people to elect their candidates, but having failed in their purpose, they then determined to resort to foul means to obtain the ascendency in the Convention. In order to get their men all together before the meeting of the Convention, they resorted to the publication of falsehoods. The Republican paper in this city having the largest circulation amongst its class, stated it had learned by credible information that the Democratic Central Committee had issued a circular to the Democratic delegates elect, requesting them to meet in St. Paul previous to the time of the meeting of the Convention, for the purpose of taking measures for defeating the objects of the Republicans. This was false, every word of it. It was a lie, concocted by the Republicans, and in entire conformity with their whole action from the beginning.

Finding this was not quite enough, they brought their influence to bear upon some wicked tools of the party, and induced them, in St. Anthony and Houston county, to issue certificates to delegates who were not elected by a majority of votes. Yes, sir, they induced certain persons to commit perjury for the purpose of assisting the aims of this party, by violating their official oaths. One of these parties was brought to trial, and after an impartial hearing, was duly convicted.

Now sir, the question arises, can an individual, or can a party, take advantage of its own crimes for the purpose of carrying out its own views? The Republican party, in their Caucus, identified themselves with the crime committed. They cannot shift the responsibility from their own shoulders; for, sir, they desired to take advantage of that crime, and they endorsed the crime by admitting to seats in their Convention the men whose certificates were obtained by these means.

Well, sir, they then commenced quibbling at our action—legal, proper action. They said the Secretary of the Territory had no right to take the Chair of the Convention. They were driven from that position, and they now state we had no right to adjourn until organized. Such is their talk through their papers and their public speakers. It is almost foolish to argue the point when we find before us evidence that every parliamentary body in the land has recognized the right of adjournment previous to organization. Look, sir, at the election of a Republican Speaker of the last House of Representatives in Congress, when they adjourned from day to day for thirty or forty days previous to their organization.

But, sir, it is necessary that the transactions of this party should be made public, and for that reason I shall support the resolution of the gentleman from Nicollet.

On motion of Mr. BECKER, the use of the Hall was granted for this evening to Mr. COULDOCK for the purpose of Dramatic representation.

On motion of Mr. GORMAN, at ten minutes past one, the Convention adjourned until to-morrow at 10 o'clock A. M.

TENTH DAY.

THURSDAY, July 23, 1857.

The Convention met at 10 o'clock, A. M.

The Journal of yesterday was read and approved.

CONDUCT OF THE REPUBLICANS.

The question before the Convention being on the adoption of the following preamble and resolutions:

WHEREAS, There is official evidence, from the report of the Committee on Credentials, that there is a majority of the legally-elected members to the Constitutional Convention who claim and are entitled to seats in this Convention; and,

WHEREAS, The members ascertained to be legally elected, from the official documents before this Convention, represent more than sixteen hundred majority of the popular vote of the Territory; and,

WHEREAS, There is a body of men who have taken possession of one of the halls of this Capitol, and call themselves the Constitutional Convention, without any legal authority or right, although some of those connected with that assemblage may be entitled to seats in this Convention, but who have not seen proper, as yet, to present their credentials, or to attend the meetings of this body, since the regular adjournment of the Convention, on Monday, the 13th inst.; therefore,

RESOLVED, That the assemblage of persons now occupying the Representatives' Hall of this Capitol, styling themselves "the Constitutional Convention," is without the authority of law or of Parliamentary usage, and revolutionary in its character, and, therefore, should not be recognized by the electors of this Territory, nor by the officers of the General or Territorial Government.

RESOLVED, That a copy of the above preamble and resolution, together with a copy of the report of the Committee on Credentials, be forwarded to the President of the United States, each of the heads of the Departments of the General Government, each of the members of the Senate and House of Representatives of the United States, and to the Governor, Secretary, Marshal, Librarian, Auditor and Treasurer of the Territory of Minnesota.

Mr. GORMAN said: I have something to say upon the subject of these resolutions before the question is taken on their adoption. I had hoped to have had a little more time to hunt up an authority which I was very desirous to have before I proceeded with an

exposition of the position of this Convention, and of the Democratic party, and to discuss somewhat the right of this Convention, as a legal and parliamentary body, to form a Constitution for the Territory of Minnesota.

The American people will undoubtedly look with great interest to the action of this Convention, and to the action of the people of the Territory of Minnesota in forming a Constitution preparatory to their admission into the Union on an equal footing with the original States.

The scenes which have transpired in the Territories of this Union within the last eighteen months or two years, have given cause—I think just cause—of alarm for the perpetuity of the institutions of our country.

My object, in the remarks I shall submit to-day, will be to place before the country the reasons for our action thus far, and to show, so far as I have a knowledge of the facts and the ability, distinctly and plainly, why it is that we occupy our present position.

First—The Congress of the United States passed an act, authorizing the people of the Territory of Minnesota to form a Constitution and State Government, preparatory to their admission into the Union as a State. To carry out that act, the Legislature, at its special session, called in part for that purpose, passed an act, in aid of of the Enabling Act of Congress, prescribing how many persons should be elected as Delegates to the Constitutional Convention. That act prescribed that there should be elected two persons for each Councillor and two for each Representative. The Enabling Act provided that there should be elected two Delegates for each member of the Territorial Legislature. It has been contended that under that provision, we had the right to elect only two for each Representative, which, doubling the number of thirty-nine, would make seventy-eight in all. The Legislature, at its extra session in May, however, took a different view of the Enabling Act, and construed it, as I have said, to give us two Delegates for each Representative, and two for each Councillor.

That either the Enabling Act of Congress or the act of the Territorial Legislature is binding absolutely upon the people in their sovereign capacity, no American Statesman has, to my knowledge, attempted to assume. On the contrary, the authorities all go to show that the Enabling Act of Congress is passed to give conformity and regularity to the proceeding—to indicate the mode of procedure. The act of the Legislature is to give conformity and regularity to the elections, and to avoid anything like revolutionary action upon the part of the people. Therefore the act of Congress and

the act of the Territorial Legislature, are mere forms—in the language of Mr. BUCHANAN, a mere scaffolding, which, when the edifice is completed, is of no further use. It is necessary, says Mr. BUCHANAN, in his Michigan debate, perhaps to have forms, to avoid irregularity, to avoid difficulty in the returns, and to avoid that conflict which would be likely to arise, were there no forms prescribed by the Legislative authority. The Enabling Act is a mere proposition upon the part of the Government of the United States. The act of the Legislature is a mere recommendation on the part of the people's representatives. The Enabling Act proposes to admit the people of the Territory into the Union as a State, upon certain terms and conditions, one of which is that we shall not tax their property—the public lands. Another is, that in consideration of such exemption from taxes, they agree to give us the 16th and 36th sections in every township for school purposes, that they will give us certain sections of land for University purposes, that they will give us certain sections of land to build our Capitol, that they will give us Salt Springs, and they propose to give us five per cent upon the nett proceeds of the sales of public lands. So the Enabling Act goes on to enumerate what rights they propose to give up to us, provided we will give up our original right to tax their property. Thus, when both parties concur, it becomes a compact binding upon each.

Now, sir, in conformity to the act of Congress, and in conformity to the act of the Legislature passed in aid of that act, on the first day of June, the people elected and sent, to meet here on the 13th of July, two Delegates for each Representative, and two for each Councillor, making in all 108. But when we appeared on that day in the Hall of the House of Representatives, it is hardly necessary for me to say that we were astonished to find there had been a feeling engendered among the Delegates already there, for the purpose of getting some advantage. Now, sir, to follow this up, I propose to show that our opponents gave the note of alarm, through the medium of their presses, that some great, high-handed outrage was about to be committed upon their rights by the Democratic party. The first thing we see, in the preparation note, is from the *Minnesotian*, during the past spring. Here it is:

THE OPENING OF THE CAMPAIGN IN ST. PAUL.—The Republicans had a glorious meeting at the Court House last night, which was addressed by Mr. Lovejoy, of Illinois, and Mr. Baker, Secretary of State of that good old Republican State—Ohio. The TRUE issue was presented by both gentlemen in a most convincing and able manner, and in that argumentative and eloquent style which is calculated to make the Buck African Democracy tremble in their boots.

The St. Paul Republicans are at work, and will give a good account of them-

selves on the day of the Delegate election. Saturday evening next we hope to have another rally to hear Trumbull, of Illinois, and other distinguished men from abroad.

This was the first note. Then come the papers following; and there appears in the Territory Mr. GALUSHA A. GROW, the Chairman of the Committee on the Territories in the last Congress, and a prominent Republican from the State of Pennsylvania. Next follows the announcement in the *Minnesotian*, of the Hon. Mr. TRUMBULL, a United States Senator from the State of Illinois, representing the same political sentiment. Each of these gentlemen came into the Territory, was taken round, and made speeches at different points to the people, upon the subject of Republican principles.

Well, sir, what next? The next thing, we find that Mr. TRUMBULL remains in the Territory until after the election, and we find that he makes himself useful to his political friends in the canvass. We find that his voice and that of his political associates, is becoming quite soft and quiet in "shrieking for bleeding Kansas," that that bone of contention is about to depart, that Othello's occupation is almost gone; some new issue must be raised; some new alarm gun must be fired; some new theatre must be selected for their shrieking, and where is the theatre they have selected? Why, sir, they discover that Minnesota is about to form a Constitution preparatory to being admitted into the Union as a State, and the best theatre for their action is Minnesota. They come here. I do not deny their right to come, but I do insist upon our right to judge of their intentions by their actions.

Well, sir, these speakers are introduced into Minnesota. The alarm gun is fired—the prestige of shrieking for bleeding Kansas is over. WALKER is assuming the position there that the people shall have a fair vote; he is taking an independent, just, fair, and equitable course; their shrieks are falling very feebly upon the country. Kansas is about to become a free State; the certainty is daily becoming greater and greater. The alarm must be sounded. If Kansas is to become a free State, the Democratic party is triumphant, popular sovereignty is vindicated, the right of the people to self-government is secured, and their capacity for self government vindicated. And DOUGLASS is sustained—a bitterer pill than all to the Republican party. If Kansas comes into the Union a free State, say they, all our shrieking has been in vain; we must disband, and we must get up a new organization for the purpose of holding on to the last shred of political power. Let us raise a storm, and fire the alarm gun in Minnesota. Let us gird on our armor and rally the Republican party in every portion of the Territory where they have a Register of Deeds. It must be done.

Our shrieking for freedom in Kansas is done, and we must have a new theatre of action. No matter if the majority is against the Republican candidate; let the Register of Deeds give certificates of election to A, B and C, it will give them *prima facie* evidence of being entitled to seats, and thus the organization of the Convention will be secured to the Republicans. If Kansas comes into the Union a free State, under Democratic auspices, and we are defeated there, we must force ourselves into some new position to give us the material for shrieking. Let us put a magazine of powder in Minnesota, where some crazy man may come along and fire it with his torch, so that there may be an explosion. That will give us food for our maniac ravings about freedom. If we cannot shriek longer for bleeding Kansas, we may shriek for bleeding Minnesota perhaps. That will make a field for our abolition emissaries. Let the Republicans secure the organization of the Constitutional Convention; let them once get the start which that will give them and our Emigration Aid Societies will flood the Territory with emigrants who shall overwhelm these border ruffians.

Yes, sir, these Republicans have acted in obedience to mandates issued by a power standing behind the throne, which is greater than the throne itself. Who does not see in the policy pursued by the Republican party in this Territory, the work of the great abolition party of the North to create a new theatre of action for their emissaries? This is but one step in their march to overthrow the institutions of the country. They are disunionists at heart, and I do not now utter that sentiment for the first time. In 1850, standing in the Hall of the House of Representatives in Congress, I declared that the great purpose of WM. H. SEWARD was to dissolve this Union if he possibly could. He had no hope of becoming President of this United Republic—the highest reach of his ambition—unless he could sever the sixteen Northern from the fifteen Southern States, thereby securing a Northern Confederacy for himself, for his own aggrandizement, for the formation of his own power. I believe as conscientiously as I am standing here, that one-half the men who are sitting in the other end of this Capitol, would never shed a tear, would never wink an eye, nor raise an arm to avert the catastrophe, if this glorious Union were severed in twain. They are men who repudiate the Constitution of the country which has cemented us together for the last seventy odd years; men who would trample and spit upon it; men who hold up their hands with holy horror at the idea of complying with its commands; men who openly and avowedly declare it is better to have no more union with slaveholders; men who say that the people's voice ought not

to rule upon the subject of slavery; a party which refuse to allow the voice of the people to control under the Constitution. Mr. PRESIDENT, they do not love the Union. They belong to a party that, when war comes, are eternally on the other side of their country's interest, and their country's right; they belong to a party which, when war has come, have mourned and groaned over the calamities of that war; they belong to a party which has no sympathy for the institutions of the South as they view them; they belong to a party which would to-day sever the bonds which bind us together, who would fire the magazine, if they could do it without incurring the responsibility themselves. Who are they, sir? Who are their leaders? and what are the doctrines of their leaders? They have announced, for the purpose of taking hold of the religious sentiments of the country, that there is a higher law than the Constitution of the country, indicating that if the mandates of the Constitution conflict with their notions of religious duty, they will disobey the Constitution of the country, making that doctrine one of the texts of their church and party.

Where, sir, have you ever heard one of their statesmen talk about preserving this Union? Where have you heard them talk about preserving, intact, the integrity of our institutions? The shorter reply of these men usually is: "If we are freedom shriekers, you are Union shriekers." Where, sir, have you ever seen them show any zeal for the perpetuity of our institutions? No, sir, go where you will, and these men will tell you that, whatsoever calamities may befall this Union, the institution of slavery shall not ever extend one inch beyond where it is now. But suppose it does, what do they propose to do about it? Does the Democratic party propose to extend the institution of slavery? Not a single member sitting in this Constitutional Convention but that would rejoice to see the voice of the people stop the progress of slavery where it is. The Democratic party is not a pro-slavery party, in the Northern States. They are in favor of having free Territory wherever it can be done by the legitimate and constitutionally expressed voice of the people. Our doctrine here now is, and we will embrace it by a unanimous vote of this Convention, that neither slavery nor involuntary servitude shall exist within the limits of Minnesota, except for crime whereof the party has been duly convicted by a jury of his countrymen. We will give the falsehood to the declaration, promulgated by their presses and their speakers all over the country, that we are a pro-slavery party, by putting the seal of condemnation on their brow, in the Constitution that will be framed by this Convention.

Well sir, what further did we do? We came into the Hall of the House of Representatives, on the 13th of July, at 12 o'clock, M. There was no particular order that we should meet in that room or that we should meet in this; but a large majority of the delegates elected by the people did meet in that hall. After the Democratic delegates came into the Hall, what did they propose to do? I intend to tell the country what their caucus said they should do. I intend to tell the country everything that was done in caucus by this Democratic party which is sitting here to-day.

In reading the Statutes of the Territory, we found that the returns of election should be made to the Secretary of the Territory, and that the Secretary of the Territory was, perhaps, the only proper custodian of those returns. My reading of the Statutes expressly requires that at a given time these returns shall be made to that officer,—of course this applies to the election of Councillors and Delegates to the Legislature and of Delegate to Congress. That officer has now the returns of the election of all the members of this Convention; he had them mostly then.

Well sir, what did our caucus determine to do? We passed a vote that the Secretary of the Territory should go into the Hall of the House of Representatives at the proper hour, and call the Convention to order—not call any member to the Chair, nor by any trick, try to take advantage of the adversary, but proceed, and call the Council Districts in the order in which they stand. Every man before me will bear me out in saying that this was the course which the party I am now addressing expected to pursue when we came into that hall.

When we had called the Convention to order, and the Council Districts had been called, it was supposed that in the ordinary course of parliamentary proceedings, he would, like the Clerk of the House of Representatives in Congress, have a list of members made out. And why should *he* have a list? Because the returns were made to him; and who else should have the list? Certainly not Mr. Nobm, a delegate from Rice county. It was perfectly proper and regular that the Secretary should have such a list. We therefore expected when we came into the hall, without violence, without pistols in our pockets, without sending for our neighbors to keep us from being whipped by the border ruffians, (laughter,) that in pursuance of the most usual and regular course of proceeding, the Secretary would call the first Council District and allow the members to come forward and present their credentials, then the second, the third, fourth, fifth, sixth, seventh,—yes sir, call the seventh Council District too,—and I shall have something to say

of the rights of the delegates from that district presently. We intended to proceed thus with the districts until they had all been called, when, if a quorum appeared, the Convention would be ready to transact business.

Having proceeded to this point, the intention expressed in our caucus was—inasmuch as several of our members had not come in, knowing that in consequence of this alarm, which had been sounded throughout the Territory, calling on the Republican delegates to be here; they were here, armed cap-a-pie, and that having slept upon their arms they were expecting some great development—if, on calling the roll, it resulted as we expected, that the Republicans had the majority, we intended to appeal to their justice to adjourn, and not organize until our men should have had time to come in, although we had reason to believe the appeal would be like the appeal made to sinners a thousand times, and with about the same effect. (Laughter.) This was the course marked by the Democrats in caucus to pursue, as forty-four of the men here present will bear me witness. We had no arms, no pistols, no bowie-knives, no border ruffian revolver party to take possession of the Capitol at midnight. We had no scenes in contemplation such as have furnished food for the Republican party during the last eighteen months. Nothing of the kind, we were resolved, should emanate from us; but the course we proposed to pursue was precisely what would have been pursued by any deliberative parliamentary body in the country. Every man before me knows this was our intention. If we could secure an adjournment until our men could come in, of course we should have been glad to do so.

Well, sir, Mr. CHASE, the Secretary of the Territory, walked up to the chair first and called the Convention to order; then Mr. NORTH—precisely in keeping with the position of that body of men who had remained in that hall from midnight until day, and from day until 12 o'clock at noon, to prevent the border ruffians from forestalling them and performing any act by which they should get the advantage—also came into the desk, and made some motion, which he himself put to the Convention. Sir, the motion to adjourn was made first, and had precedence of right, in point of time; but even if it had not, a simple motion to adjourn takes precedence of all other motions. Upon this point I will quote JEFFERSON'S Manual against that of a Clerk of the House of Representatives in the Massachusetts Legislature, Mr. CUSHING:

"It is a general rule that the question first moved and seconded shall be first put."

Who made the first motion? Now for the question of fact. I made the motion to adjourn, before any other motion was made.

Mr. NORTH called the body to order, and then made his motion himself, he acting as Chairman. Now, sir, it is the business of a Chairman to put motions made by other members; but Mr. NORTH, fearing his friends would not be quick enough to trick us, made his own motion and put it himself. Mr. CHASE put the motion to adjourn and two-thirds of the members present, by the sound, voted to adjourn. Perhaps one-third composing a portion of the opposition party, or those I supposed to belong to the opposition party, voted no. But some of them say they did not know what they were voting for—they thought they were voting on Mr. NORTH's motion. Well, sir, we can give them some parliamentary tactics, but we cannot put brains into their heads. (Laughter.) It is their business to see what is going on.

Now, sir, am I not right in saying that a motion to adjourn takes precedence of all others? I read again from JEFFERSON's Manual:

"The motion to adjourn simply, takes precedence of all others; for otherwise the House might be kept sitting against its will and indefinitely."

But supposing there were two motions made at the same time, and suppose one was put by Mr. NORTH, and the other by our chairman. I again read from the Manual:

CO-EXISTING QUESTIONS.—It may be asked whether the House may be in possession of two questions at the same time; so that one of them being decided the other goes to question without being moved anew? The answer must be special, when a question is interrupted by a vote of adjournment, it is thereby removed from the House, and does not stand, *ipso facto*, before them at their next meeting, but must come forward in the usual way.

The motion to adjourn, says JEFFERSON's Manual, takes precedence of all other motions, and when there are co-existing questions before the House, the motion to adjourn, if it is made, must take precedence. Now, sir, the motion to adjourn was first made, and if it had not been, any other motion must have been interrupted by a motion to adjourn. The motion was carried by a majority, and so announced from the Chair; it was in every respect, legally, a proper adjournment; and the body of men who have assumed to disregard that adjournment, act at their peril. But, they say they were so confused; they did not call for a division, there was so much confusion in the Hall. Well, sir, we are not responsible for the confusion; it was not made by us; they called for no division; they called for no count; they made no protest; and if they were confused it was not our fault. Men should know what they are about; and men who sleep upon their arms in this Capitol from midnight until day, and steal out, one at a time, to get their breakfast, and return to watch their opponents, should not complain that advantage was taken of them because they were confused. When

this question comes before that tribunal which will sift it to the bottom, they will decide that the only manner in which they could have prevented an adjournment, was to have called for a division before the vote was announced. Failing to do that, American statesmen, of all parties, will say to them: If you have allowed the opportunity to pass without calling for a division upon the motion, you may sleep upon the bed you have prepared for yourselves.

But, say our opponents, there was no roll called, there is nothing to show who were present; and suppose the motion to adjourn was carried, what did you adjourn? There was nothing to adjourn! Well sir, I place the naked facts against a thousand such *ad captandum* dictums. The law provided that we should assemble in this building, on the 13th of July. We met at the hour of 12 o'clock, M.; we notified our opponents that we were going to meet at that hour; they met us there at that hour, and they knew that we went there for the purpose of having the Constitutional Convention convene and organise. We could have met there for no other purpose. The law stated that we should be there, and two-thirds, at least, of the elected members of the Constitutional Convention were present in the Hall, as subsequent developments have proven, They were there by law and appointment. They knew it then; they know it now, and the mere newspaper quibble, this *ad captandum* argument, therefore, amounts to nothing.

But suppose the Convention had not adjourned, and a controversy had arisen, a debate sprang up—one chairman might have put the motion of one party, and the other the motion of another as happened in Ohio and in Indiana—would the Convention have been any more organized? We might have continued in the same condition for days and days; or suppose the law had provided for a Clerk and the body had failed to organize, would it have no power to adjourn? Must they sit there without being able to eat, drink or sleep until an organization is effected? Sir, it's not expected that a body of men, legally called together, shall not have the power within themselves, of relief when they get into difficulty. It is one of the inherent rights of an assembly of the people under the Constitution of the country, when they assemble for peaceful purposes, to meet and adjourn or disperse by their own volition. Otherwise there might be some cohesive principle which, in certain contingencies, would compel them to remain there and starve to death. The quibble, therefore, that there was no body which could adjourn before organization, proves too much; it proves its own fallacy by carrying it out until it would starve the members. Does anybody believe the people

will hold that this body had no right to adjourn prior to its organization?

I have before me the *Congressional Globe*, referring to the case of the New Jersey contested election in 1839. In that case, when the House met, the Clerk commenced calling the roll—for somebody must be presumed to have a roll—as is the usual parliamentary usage in that body. But when he had reached as far as the State of New Jersey, the question arose as to whether the members from that State, whose seats were contested should vote or not. The question was raised whether the delegates presenting the *prima facie* evidence of the certificates of the Governor, under the broad seal of the State of New Jersey should be recognized, or whether other than *prima facie* evidence should be recognized. In that condition the House adjourned from day to day, and took all manner of recesses, although, according to the theory now advanced in the other end of this Capitol, they were compelled to sit there without adjourning until they had completed their organization. But I have disposed of that quibble beyond any further question.

The next day at 12 o'clock, this Convention, composed mostly of the persons now here, repaired to that Hall to which we had adjourned. The same Secretary, with the same returns in his possession, went inside the door, and saw the Hall in the possession of a body of the citizens of the Territory, seemingly very quiet, not doing much of anything, but apparently waiting for something to turn up. He announced the fact that the Hall was in the possession of this body of men. At that moment, why did we then and there adjourn to another place? I want the country to know why we did it. If we had gone into that Hall then, it would have been said we came there to take it by force. Our opponents had circulated the report that we intended to take it by force. One report reached Red Wing, that GORMAN had collected four hundred Irishmen to take the Hall. [Laughter.] I am informed, upon credible authority, that such a report was actually circulated.

Mr. PRESIDENT, that is exactly what they wanted us to do. They wanted violence. They wanted food for fanaticism. They wanted the material for another campaign. It would have suited their purpose if there had been violence and bloodshed. They would then have heralded it to the world that the border ruffian Democracy, rushed into the hall with bowie knives and revolvers and bludgeons and struck the peaceful occupants down in their seats; for if there had been a fight, some of them would have been knocked over, it is very likely.

Well sir, in our caucus, we resolved to be peaceable, and to

commit no violence; we resolved not to give them the chance they wanted to tell the country we were ruffians. We went to the door of the hall in obedience to our adjournment, and when it had been announced in an official form that the hall was in the peaceful possession of a meeting of the citizens of the Territory, we adjourned to this chamber. Again "Othello's occupation's gone." That was the crisis of this Constitutional Convention. If violence had been used on that occasion, it would have furnished food for their party in Minnesota for years to come. Instead of that, our whole proceedings have been conducted in a quiet, orderly manner, in accordance with parliamentary law and practice.

But they say Mr. NORTH was authorized to call the Convention to order by the written request of fifty-six members, who were legally elected to the Constitutional Convention. How do they prove that? I hold in my hand their printed list of members, as their body is now constituted, containing fifty-nine names. On the 13th and 14th days of July, when these transactions of which I have been speaking, took place, I am informed that Mr. PHELPS was not here; that Mr. COE had no certificate of election; that Mr. SHELDON was not here, and that one other delegate, whose name I do not now recollect, did not make his appearance in the Convention. That would have left them fifty-five; but how did they get that fifty-five? I shall proceed to show: I presume they had got Mr. COE here and had obtained his certificate, making their fifty-six. But I should like exceedingly well to have that list of names published, for if it contains the names of fifty-six legally elected members to this Convention, then their record is untrue and they have sworn in more than sixty members. But suppose there were fifty-six names. Who were they? There were four from St. Anthony, Messrs. HALL, MURPHY, PUTNAM, and SECOMBE, whose names appear no doubt on the paper requesting Mr. NORTH to call the Convention to order. If the list is published at any time prior to our going before the people, I give notice that I shall prove that certain persons whose names I suppose are in it were not in the city.

I return again to the four St. Anthony men whose names I take it for granted, are there. What right have they to seats in that Convention? They say they have in their possession certificates of their election to seats in the Constitutional Convention signed by the Register of Deeds of Hennepin County. Well sir, that party had notice that these men were in possession of certificates fraudulently given. I have before me a certified copy of that notice, which is as follows:

EXECUTIVE OFFICE, M. T.,
July 16, 1857.

In the matter of Charles L. Chase *vs.* C. G. Ames.

Charges of official misconduct and neglect of duty. Papers in this case filed, and the usual notice given.

Both parties appeared in person and by their attorneys.

After a full hearing, the following letter was transmitted to the defendant—Ames:

EXECUTIVE OFFICE, M. T.,
July 17, 1857.

SIR: After considering the evidence in support of the charges preferred against you by Charles L. Chase, Esq., and from a careful examination of the statutes regulating and defining the duties of your office, I can arrive at no other conclusion than that you have transcended your lawful powers, and been guilty of such official misconduct and neglect of duty, as will compel me, in the just and impartial performance of my duties, to remove you from office.

You are, therefore, notified that, by virtue of the authority in me vested by law, I have this day removed you from the office of Register of Deeds for Hennepin county, and hereby declare said office vacant.

From this date you will, therefore, cease to exercise all powers and duties belonging to said office, or by law in anywise pertaining thereto; and you are hereby directed to deliver all papers, books and records of the office to your successor, when he shall be appointed.

Very respectfully, your obedient servant,

S. MEDARY.

To C. G. AMES, Esqr., Saint Anthony, M. T.

I certify that the foregoing is a correct copy of the record in the case of C. L. Chase *vs.* C. G. Ames, taken from the original Records of this office.

EDWARD M. M'COOK,
Private Secretary.

This notice, sir, was given after a regular trial had taken place before the Governor of the Territory, in whom the power is vested by law of removing county officers, upon complaint being made. The prosecution was conducted by the Attorney General of the Territory; and the defendant appeared by his Attorney, I believe, Mr. NOURSE, the Attorney for Hennepin County. Evidence was given, and arguments were made. The case continued for a day or more; but being ended, the Governor decided that this Register had been guilty of a high misdemeanor; and, therefore, in the exercise of the power vested in him by law, removed him from office. True to the instincts of their party organization, true to the mandates of their leaders, true to the commands from abroad, the magazine must be fired, the Republicans must in some way get the majority, must in some way secure the organization of the Convention. The County Board, composed of a majority of Republicans, convened, and against all decent propriety, re-instated this Register, who had been found guilty of a high misdemeanor, after a fair and impartial trial; and he continues to force upon the coun-

try, false certificates and false election returns, and attempts to force upon this Convention, men who have no more right here than four men selected from yonder stone quarry. Why? I shall attempt to demonstrate why these certificates gave no *prima facie* evidence of their election.

First, they had notice of this fraud, and he who attempts to act after notice, acts at his peril. I say they had notice of the fraud. The newspapers had heralded it to the country, the records of the Executive office themselves were notice, for the Executive was for this purpose a court of Judicature, and the records of his action in this instance, would as legally serve as notice to these parties as would the records of the Supreme Court when a case had been decided. They knew the fraud had been committed. And, sir, I deny the authority of that County Board to re-instate this man. The Statutes say that when a man has been found guilty of a high misdemeanor, it shall disqualify him from office. This man had been thus found guilty, and therefore could not legally be reinstated. Was the certificate of Parson AMES *prima facie* evidence of the right of these men to seats in the Constitutional Convention? I answer, no! and there is no analagous authority that it was such except that of the Clerk of the Massachusetts House of Representatives. I have the authority of the House of Representatives of the Congress of the United States, to support the position I have assumed. In 1839, when a set of men appeared there with certificates under the broad seal of the State of New Jersey, signed by Gov. PENNINGTON, the Clerk presented evidence that they had not been legally elected, and would not recognize their certificates as *prima facie* evidence of their right to seats in that House. The record reads:

HOUSE OF REPRESENTATIVES,
MONDAY, Dec. 2, 1839.

This being the day set apart by the Constitution for the assembling of th two Houses of Congress, at 12 o'clock, M., the Clerk, (Mr. Garland,) called the House to order and said:

According to the usual practice, gentlemen, I am prepared, if it is the pleasure of the House, to proceed to call the names of the members of Congress elect to the twenty-sixth Congress, first session.

Then follows the list of names until he arrives at the State of New Jersey, when he calls the name of JOSEPH F. RANDOLPH, whose seat was uncontested. I again read from the Congressional Globe:

When the Clerk had arrived at this part of the roll, he stated that there was conflicting evidence with regard to the election of five members from this State, and asked if it was the pleasure of the House that he should pass over their names, until the call of the balance of the roll was completed.

Sir, we proposed to do that thing precisely, in our caucus. Mr.

MAXWELL here rose, and the debate was commenced, which continued from time to time for days. On one hand it was contended that the broad seal of the State of New Jersey must be respected as *prima facie* evidence of the right of those members to seats; and on the other, it was regarded that these certificates could not be admitted as *prima facie* evidence when the proof was before them that the men had not been elected by a majority of the votes. Mr. CRAIG said:

The *prima facie* evidence had been heretofore taken under the rule of convenience, but he would ask if in a case of palpable fraud, gentlemen would abide by this old rule of *prima facie* evidence in defiance of truth and justice, and the strongest documentary testimony.

This is all we ask here. We only asked that when we came into that hall, the roll should be called; that those members whose seats were contested should stand aside until we had ascertained whether a quorum was present, and then that their cases should be determined according to the law and the facts. On this occasion Mr. CRAIG said:

It did not matter; the votes had been rejected, and in consequence of their being rejected from a general return, the gentlemen who were the particular friends of the gentleman, frankly claimed a seat. If they had not been rejected, the gentlemen on the other side would have a majority of votes, and we hold that they, having the majority of votes cast, have the *prima facie* evidence of right to seats on this floor. He could not be bound by the Great Seal of the State of New Jersey, and vote for members to take seats, when his conscience told him that they were not entitled to those seats. All he desired, was, that the gentlemen who had the majority of legal votes, of the State of New Jersey, should have the seats. With regard to State Sovereignty, which had been so much spoken of, he would say that he had the highest regard for it. But when he spoke of the sovereignty of a State, he did not mean that there was no difference between the people who constitute the States in this country, and the Governor and Council. In this country the people constitute the State.

Sir, I proceed further. Mr. PICKENS said:

When the Clerk progresses and calls through the roll of undisputed members, you will then have a quorum competent to decide this preliminary question. The House has the right to decide now, or then, and the preliminary question which will be presented to it, is, as to who has in his possession the legal returns from the State of New Jersey. The one side may say that the certificate of the Governor was the only full, legal, and *prima facie* evidence, and the other side may say, that the majority of the freemen of New Jersey who had sent here another set of Representatives, had presented a *prima facie* case in full. Well, was he to say that one set of gentlemen were madmen and fools because they chose to take one statement as *prima facie* evidence, in preference to another? What is *prima facie* evidence? Absolutely nothing if it is rebutted by other *prima facie* evidence; and the tribunal constituted to judge, is to decide which is the best testimony. We are constituted under the Constitution the supreme tribunal to judge in the matter. Under the Constitution, it belongs to us to decide on the qualifications, return and elections of members to this House.

There is no appellant jurisdiction; and one side may say that the testimony presented by one set of members is to them *prima facie* evidence; and the other side may say that the testimony presented by the other set is *prima facie* evidence for them. We are created by the Constitution, *quo ad hoc*, the judicial tribunal, and there is and can be no other. But the practical question is, can we decide? A gentleman has proposed that we go on and organize the House. You can either decide on that question, or you can go, if you choose, into the merits of the question. The reason why the House has heretofore preferred an organization by the election of a Speaker and the appointment of Committees, is from mere expediency. But it belongs to the House, as a matter of right, to go directly into the merits of the question, and look behind the *prima facie* evidence; without the interposition of a usual Committee, if they choose. If the House choose to decide as to the returns first, it can do so, and if it choose to decide on the merits of the election, it can do so. The only practical question was the one presented by the gentleman from Virginia: and he thought it so reasonable, that he thought gentlemen on all sides should unite upon it. Gentlemen ought to come here prepared to meet each other in confidence and liberality.

And again:

He wished now to say a word in reply to a gentleman from Kentucky, in regard to State Sovereignty. When those questions came up to be decided, he would be prepared to decide them, but he would say at present, that according to his own ideas, State Sovereignty was not in the possession of a Governor and Council, or under a great seal. It was in the keeping of the people. It was properly in their keeping, and when they speak through a Convention, then they speak the sovereignty of the State, and not till then. The Governor's seal and certificate are evidence of State authority, but are not exclusive evidence of sovereignty. We hold that sovereignty is in the keeping of the people themselves, and they alone have a right to declare their sovereignty when they meet in Convention; but, sir, sovereignty does not belong to State Legislatures or Governors of States. Give him the legal evidence that such was the authority of New Jersey or of South Carolina, properly presented, and when the question properly arose, he would vote upon it. But he held that the House, if they choose, had the whole matter under their adjudication, and could not only decide upon the returns, but could go directly into the merits of the question, if they thought it expedient.

Again he says:

He did not desire to preach revolutionary doctrines, but he was ready to declare a great truth that history would bear him out in, which was, that the thunder of Heaven might sometimes be heard to roll in the indignant murmurs of an outraged but free people.

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When the people come to decide upon that question, they will tear off and trample in the dust the technicalities of Special County Court pleading, which are thrown around us here for party purposes or otherwise.

Well, sir, I proceed further with the history. Precisely the same action was taken then that the Democratic party proposed to take now. Mr. RHETT offered the following resolution:

RESOLVED, That the House will proceed to call the names of gentlemen whose rights to seats are not disputed or contested; and after the names of such members are called, and before a speaker is elected, they shall, *provided* there be a

quorum present, then hear and adjudge upon the election returns and qualifications of all claimants, &c.

This resolution was presented and discussed for two or three days, and in the meantime, JOHN QUINCY ADAMS had been called to the Chair. The vote was first to be taken upon an amendment proposed by Mr. DUNCAN. The Chairman said that the State of New Jersey should not be disfranchised, and that the members whose seats were contested should vote.

An appeal was taken from this decision and the House decided by a vote of 115 to 118—a strict party vote with one exception, that the New Jersey members should not vote, and by different votes, 117 to 122, and 116 to 122, confirming the same decision in each case.

The Democratic party assumed on that occasion that the elections are by the people and that the returns of those elections are as much *prima facie* evidence of a right to a seat, as any official certificate. In the Senate of the United States, the case is different. The Constitution provides that the Legislatures of the several States shall elect, and it has been the practice in that body to receive the certificate of the Governor as *prima facie* evidence of the action of the Legislature, but the action of the Democratic party in the House of Representatives in 1839 is the only precedent in point, in Congress, under our Constitution ; and the Democratic party in this Convention proposed to follow that precedent. Mr. VANDERPOEL, of New York, in that debate, said those certificates were given to the minority candidates for the purpose of enabling them to take part in the organization of the House, and that the effect of the procedure would be to keep the majority candidates out of their seats, perhaps for months.

This, sir, was part of the precise programme of the Republican party here. Notice had been served upon the Democratic party, through the medium of their party organs, that they intended, to exclude the Pembina Delegation, first because they were out of the proposed limits of the State in part; and if they could not exclude them upon that ground, they determined to exclude one of them absolutely, because he was a Government collector. I am informed that they resolved in their caucus to exclude every man from whatever locality he came if he holds a Government office, notwithstanding the fact that he is sent here by an independent sovereignty amenable to no power whatever, and without, and beyond Legislative control.

But, sir, this is not the only precedent. There was a case from Rhode Island which occurred during the Continental Congress,

similar in its character. During the debate on this New Jersey case, I find that,

Mr. McKAY then moved that neither set of members from New Jersey shall vote until the question, who shall vote from the State of New Jersey, shall first be decided by the House. He contended that this was the proper course to be pursued, and read an extract from Hatzell in support of his position. It was the uniform practice in the British Parliament when seats were contested, that both parties should withdraw until the case was decided by those who were not personally interested in the matter. This was the only correct and proper course to be pursued, and he hoped his proposition would be agreed to by the House. He also referred to the case of HOWELL and EVERETT, of Rhode Island, in the Continental Congress, which had been cited by the Chairman, and showed that the Rhode Island members did not vote on their own case in the first instance. Subsequently, however, they did vote upon such questions as were presented.

This is the precedent and the rule, and it is the rule which we had resolved in our Democratic caucus, to follow, and the rule which we should have followed out if the Secretary of the Territory had been allowed to call the roll. But with our opponents, tricks must supersede practice and truth; they must be a substitute for power, and possibly for brains.

Sir, there never was a more completely parallel case on the face of the earth than the New Jersey case with that of Minnesota, the difference being that in the Minnesota case the parties had notice by public trial, before the Executive, that these certificates were fraudulent, and by endorsing that fraud when they voted these men into their seats, they became *particeps criminis*. I say that the only two analagous cases on record, where the question has been decided in Congress are this New Jersey case and the Rhode Island case in the Continental Congress. In the latter, neither party voted until after the decision of their rights. The question of *prima facie* evidence, is one of fact and of notice. Here, if it is a question of fact, we have the facts before us that the St. Anthony Delegates who received the certificates were not elected by a majority of the people. If it is a question of notice, they have had the notice.

It was understood at that time that the Federal party and the Democratic party were nearly tied, and every sort of technicality was resorted to, for the purpose of giving these New Jersey members what is called *prima facie* evidence, so as to secure to the Federal party the organization of the House, in 1839. Sir, our Republican friends are the lawful and legitimate descendants of that party, in those days. Their action now proves them to be faithful sons of Federal sires.

Now, sir, I want to show you another fact which I do not think

has been before alluded to, and which places their conduct in more glaring and apprehensive colors, even than any thing I have before shown. The Register of Deeds says he did not see proper to give certificates to the parties having the largest number of votes, because there was no distinction made in the votes for Delegate at large. Saint Anthony was entitled to elect two Delegates for her Councillor and four for her two Representatives; all being in the same District. Every voter who voted for one had the right to vote for them all. Now, then, they say they did not give certificates to the men who received the highest number of votes, because the votes did not designate which were for Delegates at large. But there are only two Delegates at large from that District; and why did they not give certificates to the other two who had received a majority of votes? Sir, no power but the power that is behind the throne can tell. The mandate went forth that these certificates were thus to be issued, and the mandate was obeyed. Senator TRUMBULL had been there but a short time before.

Mr. MEEKER. He was in Saint Anthony on that day.

Mr. GORMAN. He was in the city at the time. Worse and worse. The evidence accumulates, as time progresses. But I want an answer to the question: If the Register withheld certificates from two of these men, because the votes did not specify that they were for Delegates at large, why did he not give certificates to the other two? Take their own version of the matter, and the votes given for them need not have specified that they were for Delegates at large. No, sir, that did not suit their purpose. They must go the whole figure or none.

Mr. PRESIDENT: I ask the laboring men in their fields, I ask the farmers at their plows, I ask the mechanics at their work, why the Register of Deeds, in Hennepin County, did not give to the other two Delegates who were not Delegates at large, but who received a majority of votes, their certificates? Let them have their own version, let them tell their own story, and I ask them to answer me that question! There is no reason, except because it would not suit their purpose. Does not it present, if it were possible to present stronger evidence than has already been adduced, still stronger evidence of a preconcerted design to forestall the action of this Convention, by a stupendous, manifest, open, intentional fraud? These two men, by the returns of the election, had a majority, and by the Republican construction of the law, were entitled to certificates. I place that fact before the people of the Territory; let them read it, and there will be a still, silent, but effective voice come up from the people of the country that will rebuke

these men. It is the most dark and damning deed of official action I have ever known an officer to be guilty of, and especially in view of the circumstances. But sir, the party demanded that this illegal seeming majority should be obtained, and that it should be heralded over the country, and the world that Minnesota was Republican. The plan founded in frand, steeped in corruption and recklessly executed, will recoil in vengeance upon their heads. There is no escape from it.

What further? They found in the County of Hennepin, by throwing out the vote of a majority of a certain precinct, that Mr. RUSSELL was not elected. They must do something as salvo, something to appease the wrath which they felt would come upon them. Thieves, generally, when they are closely pursued, will attempt to divert attention from them by joining in the cry of "stop thief." They issued a certificate to Mr. RUSSELL, but he declined to receive it. He is a Democrat. He is a Receiver of the Land Office in Minneapolis, a government officer. They gave him a certificate, I presume. with the intention of turning out Mr. FLANDRAU, of Nicollet, who is also a government officer, and with this precedent, the certificate in Mr. RUSSELL's hands would do no harm. With the majority in their hands and this precedent before them, they could, to use a western expression, knock Mr. RUSSELL, for being a government officer, "sky high."

What did they intend then: Let us follow their action, and by that judge of their design. No sooner did they find that Mr. RUSSELL would not receive his certificate, than they dispatch a messenger for Mr. SHELDON the opposing candidate, or perhaps he comes here on his own accord by intuition, for there is a kind of intuition that runs through this order of fanatics. They think alike, they dream alike, they breathe alike, and a large proportion of them pray alike; and it is for the curse of the God of Heaven upon the institutions of this country which they do not happen to like. [Applause.]

I say, no sooner had they seen that Mr. RUSSELL would not accept his certificate, and that they should not have an opportunity of a lick at him, in the way that they had contemplated, as a Government officer, than they determined, I learn, in caucus, to bring in Mr. SHELDON. That gentleman makes his appearance, and they decide they were mistaken in giving the certificate to Mr. RUSSELL, and that Mr. SHELDON is elected. They decided first that he was not elected because he did not get a majority of the votes, and now they determine he is elected because he did get a majority. Now either Mr. SHELDON was elected when this Board of Canvassers

decided that he was not, or, he is not elected, when they now give him a seat in their Convention. As the couplet runs:

"They wire in and wire out
And leave the people still in doubt,
Whether the snake that made the track,
Was going South, or coming back."

[Great applause.]

They place themselves in antagonistic positions, and do whatever seems to suit their purpose. First, it is right to give the certificate to Mr. RUSSELL and wrong to give it to Mr. SHELDON. Now, it is right to give Mr. SHELDON his seat, and wrong to give it to Mr. RUSSELL. Which horn of the dilemma they choose, makes little difference. Their incentive to do wrong then, is their incentive to do wrong now, that they may by some means secure the majority of the Convention.

Now, sir, I come to another point in this controversy. I have before me a *Minnesotian*, in which the editor gives notice to the world, that the Pembina Delegation were to be excluded.

The Enabling Act is quoted here to the effect that the delegates shall be elected within the respective limits of the proposed State. He gives notice to the world that Pembina is not entitled to a representation in this Convention. Sir, the world abroad does not know what Pembina is, who the Pembina Delegation are, or what they are. I intend in these remarks to give such information upon that point as will leave no doubt upon the subject, upon the part of any one who takes the trouble to read them. The county of Pembina is an organized county in Minnesota—properly so by the laws of the Territory. Under the apportionment of Representatives and Councillors, she (Pembina) is entitled to two Representatives and one Councillor. Such is the law of Minnesota. By that apportionment she is designated as the Seventh Council District. By virtue of the Enabling Act we are allowed two delegates for each Representative in the Territorial Legislature, which I construe as I presume Congress intended it should be construed, to mean two for each Councillor, and two for each Representative. By the Enabling Act a boundary is proposed, which if it were absolutely binding on us, would simply divide the county of Pembina about equal; and because it is so divided, say our opponents, they should lose *all* their representation in this Convention. That is their argument. They offer no other. True, Pembina extends into the far, far west. Brown county also extends into the far, far west. Both of them reach beyond the limits of the proposed State in the Enabling Act. But that does not prevent their being represented in this Convention. The Enabling Act says the delegates shall be

elected by the Representative Districts as then constituted, meaning as constituted when the Act of Congress was passed, or as constituted when the election took place. Now, sir, the county of Dacota has been divided since the Enabling Act was passed, and if the construction I have first named is to obtain, *your* district, Mr. PRESIDENT, has been divided, and you too are liable to be refused a seat here. Yes, sir, the same parity of reasoning that would exclude Pembina from representation in this Convention, would also exclude Dakota and Rice counties. Rice county has not been divided, but has been enlarged and changed. The county of Steele has been divided since the passage of the Enabling Act, but the representation has not been changed in any of these counties. The boundaries of Mower and Olmsted counties have been changed, but their representation has not. If the Enabling Act then changes the boundary of the county of Pembina, which I say it does not, that portion of the county still within the boundaries of the proposed State, yet more than two thousand square miles, of right claim the representation of the county, unless forbid by law. But, sir, the Legislative apportionment law has not been changed by the Enabling Act, or by our Legislature. The Pembina Delegation has not been changed, and the right to representation upon the part of that county has not been changed. This Delegation come here to represent the Seventh Council District, and the only question for us to decide is, whether there is a Seventh Council District by the laws of the Territory of Minnesota? I answer, there is. It was the law then, it is the law now, and it will continue to be the law until changed by the proper authority. That is the view of the subject we take, and the only legal one that can be taken.

Pembina, by the Enabling Act, is about severed in twain. That act, however, by the authority of the ablest American statesmen, is merely recommendatory, in its effect—merely advisory. It simply recommends the people to conform to certain rules and precedents, for the sake of order, and for the sake of conforming to the usages and customs of the American people. The Enabling Act proposes the line shall commence at the boundary of the British Possessions, in the center of the Red River of the North, and follow its meanderings south to a certain point. Suppose this Convention should divide the Territory by a different line, would we act in violation of law? No, sir, Congress would have the right to accept or reject us, as they thought proper; and the only thing that could be said against the policy of such a course, would be, that Congress might say to us: "We proposed to you certain conditions on which you should come into the Union, and if you do not choose to accept

those conditions, you shall not come in at all." It is not pretended that the Enabling Act is absolutely binding upon the sovereign power of the Territory.

The first question to be taken by this Convention, when it shall be permanently organized, is: Are the people of Minnesota ready to form a Constitution, and to be admitted into the Union on an equal footing with the original States? The citizens of Pembina living on the other side of the Red River of the North, are entitled to a voice in determining that question, for they are living under the jurisdiction of the Territory, subject to the criminal and other laws of the Territory, and entitled to the *protection* of the laws of the Territory; and they are as much entitled as the people living east of that river, to come in and say whether we, as a Territory, desire to become a State. The entire county of Pembina is to-day as much a part of the Territory of Minnesota, and as much entitled to the same representation as before the President of the United States signed the Enabling Act. Since the passage and approval of that act, all of that county has been represented in the Legislature of the Territory, and has had a voice in the enactment of laws of the utmost importance; and should we think proper to continue the whole of that county within the proposed State, the only question for us to consider would be: Will Congress admit us into the Union with these boundaries?—and nothing more. To exclude Pembina from any participation in this Convention, would be to repeal the Apportionment Law, which says she shall be represented. It is true, the Republican party says she is represented by people who live far away in the north-west, where the people have but few advantages of education. This party distrust the capacity of the people for self-government, and think, therefore, they have no business to be represented. Well, sir, if they cannot read and write, they can make their mark. But these people who do not believe in the capacity of the people for self government, talk about their being barbarians. They say the people up there are a set of half-breeds; that they are not civilized; that they are Frenchmen. [Laughter.] These are the arguments that have gone forth, uttered by the party now sitting in the other end of the Capitol. Sir, I care not from which side of the river the Delegates are elected. Pembina is entitled to representation upon this floor, unless you can prove that there is no Seventh Council District.

Mr. BROWN. There is one fact which the gentleman seems to have passed over in his remarks upon the Pembina District. The same is precisely parallel with that of the Tenth Council District. No more Territory is cut off by the proposed State line from

the Pembina District, than is cut off from the Tenth District by the same proposed line. In the Pembina District no votes were cast except at the legally established election precincts, east of the proposed State line. In the Tenth Council District, votes were cast in precincts west of the line of the proposed State, in consequence of which members of the Convention are now holding undisputed certificates. The only difference was that in the Pembina District, the delegations are supposed to be Democratic, while in the Tenth District there are three Republicans admitted to have been legally elected, and are now sitting at the other end of the Capitol.

Mr. GORMAN. I am very much obliged to the Chairman of the Committee on Credentials for the suggestion. That clinches the reason of the rule. If the Committee on Credentials have ascertained that the different candidates in the Seventh District have been elected by the votes cast exclusively east of the line, within the limits of the proposed State, there must be an end of all the cry that has been made about the admission of the Pembina delegation, for the cry has been raised from first to last simply to give the opposition a majority in the Convention. Exclude Pembina, say they, right or wrong—disfranchise one whole Council District, violate the laws of the Territory, and the Enabling Act—exclude by any means one whole Council District. It is necessary for the purpose of party organization, to give to us (the Republicans) the the prestige of party ascendency. This is the mandate of the powers behind the throne. It is in accordance with the suggestions said to have been made to Parson AMES by Senator TRUMBULL. Sir, I can prove, if it is necessary, that Register AMES said he had seen Mr. TRUMBULL, and that they had decided the question in reference to the St. Anthony delegation, or words to that effect. There is a wheel inside of all this. Kansas may be coming into the Union shortly, and Minnesota, perhaps, is to be made the scape goat to force upon Congress the Topeka Constitution. This same Senator TRUMBULL may then be found standing at the head of his abolition friends, to prevent Minnesota from coming into the Union until she comes in side by side with the Topeka Constitution. I ask those who read these remarks, to mark that if there had been violence in organizing this Convention, this same Senator TRUMBULL would have heralded the fact to the country as another instance of ruffianism, and would have used it in his efforts to foist the Kansas Topeka Constitution upon the country. And this consultation with Parson AMES looks as if it was a part of the programme, for it seems that he did consult with him, and that it was under the advice (as I am

informed by persons present) of this same Senator that Register AMES was induced to commit as stupendous a fraud as was ever perpetrated on the country.

But, sir, this fraud does not stop here. It goes further. They have sitting in the other end of the Capitol, a man by the name of COE. Whether he is the same Co. who figures so man thousand times on the sign boards on the streets, I am not able to say. He seems to be a kind of myth, a sort of Will-o'-the-wisp, who springs up in a night and makes his appearance here nobody knows how. We have here, under the official seal of a Mr. McCAN as Register of Deeds—and now sitting in the other end of the Capitol—the returns of the election of Houston county. We have also, in this connection, a notice which this same McCAN caused to be posted in that county, prior to election, stating that an election would be held on the first day of June for five delegates to the Constitutional Convention from that county, which is in these words:

Notice is hereby given that on the first Monday, the first day of June next, an election will be held in the town of Caledonia, in Caledonia precinct, Houston county, to elect five Delegates to the Constitutional Convention to frame a Constitution, which election will be opened at 9 o'clock in the morning and continue open until 4 o'clock in the afternoon of the same day.

(Signed) JAMES A. McCAN,
Clerk of the Board of County Commissioners.

May 19th, 1857.

We all know that Houston and Mower counties jointly constitute one Council District, and that in accordance with the arrangement made, and I believe in accordance with the apportionment, Houston county was to elect five Delegates. The notice, a copy of which I have before me, was given precisely in accordance with the Revised Statutes, and signed, JAMES A. McCAN, Clerk of the Board of Commissioners and Register of Deeds.

In accordance with that notice five men appeared on each side as candidates, and were voted for. Mr. McCAN was one of them. Five Delegates were elected, two Democrats and three Republicans. Mr. McCAN was elected, a Mr. THOMPSON was elected, Mr. ANDERSON was elected, Mr. DAY was elected, but Mr. STREETER, who received some forty or fifty votes more than Mr. COE, was refused his certificate, though not at first. Mr. COE did not pretend that he was elected. He was never known to claim a seat here until shortly before he came on here about the time of the organization. There was no dispute in the official returns. STREETER received 377 or 8, while Mr. COE received but 329. There was no difficulty about the votes not being for the delegates at large. The county was enti-

tled to send five delegates. Why, then, did this Register hesitate about giving the certificate to Mr. STREETER? No one can hardly realize the fraud that has been committed under the direction of this Republican party. Mr. STREETER and Mr. COE came on here. Gov. MEDARY had already removed one Register of Deeds for malfeasance in office, and he did not dare commit the same fraud perpetrated by the St. Anthony Register until he got here, as I am informed. Mr. STREETER had forty odd majority of the votes cast, and not one of the votes cast for him were from outside of Houston county. And let me tell those gentlemen who talk of the Republican majorities in Southern Minnesota, that when the vote comes to be taken upon the adoption of the Constitution *we* shall make, they will find more Democrats there than they have thought of.—Why, sir, I am astonished at the powers of these ministerial officers have assumed to themselves. The law the Territory defines clearly and distinctly what shall be the powers and duties of Registers of Deeds. Here are the limitations and restrictions placed upon that officer in canvassing returns of election. I read from the Revised Statutes:

SEC. 43. No election returns shall be refused by any Board of County Commissioners for the reason that the same may be returned or delivered to him in any other than the manner directed in this chapter, nor shall he refuse to include any returns in his estimates of votes for any informality in holding any election or making returns thereof; but all returns shall be received, and the votes canvassed by such Clerks, and a certificate given to the person or persons who may by such returns, have the greatest number of votes.

SEC. 48. In all elections for the choice of any officers unless it is otherwise expressly provided, the person having the highest number of votes for any office shall be deemed to have been elected to that office.

SEC. 49. The Clerk of the Board of County Commissioners and Register of Deeds, as aforesaid, shall not construe the Statutes concerning the opening of the election returns, so as to decide all matters of law and fact themselves; but the Clerk and Register aforesaid, and the two Justices they shall call to their assistance, shall constitute a Board, a majority of whom shall decide all matters of disagreement; and the said Board shall disregard technicalities and misspelling, or abbreviations of the names of candidates for office, if it can be ascertained from such votes for whom they were intended; but they shall not count votes polled in any place but established precincts, and a breach of the provisions of this Section shall be deemed a misdemeanor in office, and be punished accordingly.

Yet, sir, ministerial officers, in violation of these express commands, have assumed to judge of the law, and to oust members duly elected, by large majorities, from their seats. They have, in obedience to the commands of their party leaders, attempted to forestall public opinion, and by giving to candidates who have re-

ceived a minority of the votes, what they call *prima facie* evidence, by which they may stifle the voice of the people, and defraud a legitimate majority of its power in the Convention. There is no other conclusion we can come to. We cannot do otherwise than believe this was their design. The law expressly commands these officers that all returns from legally established precincts shall not be rejected; but they find a higher law which covers the whole case, and in the face of the plainest mandates of law, wilfully and knowingly give the certificate to COE, who received 329 votes, while STREETER received 377. Was it because COE was voted for as Delegate at Large? If so, why did they not oust SHELDON? No, sir, they have seated him in that body as Delegate at Large, although Mr. RUSSELL had the certificate.

It is a matter of surprise to our fellow-citizens at home that we should not, in view of these facts, allow an unlawful advantage to be taken of us to defeat the will of a majority of the people? We know that we represent here a majority of the people of Minnesota, and we claim that the Democrats sitting here have a majority of sixteen hundred of the popular vote of the Territory, who prefer that the Convention should be composed of Democrats. The returns show this, and the reason why we have not a large majority of all the delegates elected is owing to the fraud of these ministerial officers. And when we exhibit these official returns, the country will judge who it is that represents the will of the people in this Convention. The people will be aroused because of the frauds of these ministerial officers who have *now* smothered that voice by acting in direct violation of the section of law which I have read, in not giving to those receiving the highest number of votes certificates of election; all of which has been done by that party, for the purpose of securing the temporary organization in the Convention, and giving to their party the prestige of power throughout the Union. I repeat, it is nothing more than obeying the mandates from abroad, that something must be done to keep up the slavery agitation, or the Republican party is lost. They are a party of one idea. There is no cohesive principle that can bind them together, except this one engendered by the fanatical spirit which has kept them alive in this country. No two of them agree upon the principles or policies of the government. No half dozen of them agree upon the great questions of the financial policy of the country, either State or National. They have no combination, no original principles, which they, as a party, have put upon record, save upon the subject of that fanaticism which they have engendered throughout the country. They have no second interest, and no interest that is not

antagonistic to the welfare of this Union. They have determined that if they cannot rule the Union with the North and South combined, the Union shall be dissolved. No more Union with Slave States is the motto of more than two-thirds of that party to-day, and if a large part of the body of men now sitting in the other end of the Capitol would place in the Constitution they propose to frame, their honest sentiments, they would place the negro side by side with the white freeman at the ballot box. They would place the negro in the jury box, on the witness stand and everywhere; side by side with the Anglo-Saxon, who conquered this country and made it what it is, who has given it laws and institutions, and perpetuated it from the hour of its existence until the present time. And they would do more. If that body of men would, to-day, express their honest sentiments, they would incorporate into their Constitution the principle of no more Union with Slave States; they would say, better, far better, destroy this proud fabric erected for the perpetuity of American freedom and American institutions, than allow slavery to spread one inch beyond where it now exists. Day by day they become more fanatical, more insane, more reckless to the destiny of the country, more destructive in their operations, more outrageous in their pretensions, and more violent in their actions. In Kansas, to-day, if the truth was told, their Emigrant Aid Societies have peopled that country with a set of men armed with SHARPE'S rifles, armed with COLT'S revolvers, armed with deadly weapons and crazy brains, for the purpose of breaking up law and order in that Territory, and destroying the integrity of this Union. But let a Northern Democrat go there who is sincerely in favor of making Kansas a free State by the fairly expressed voice of the people, and they will denounce him as a border ruffian, a propagandist of slavery, as a pro-slavery Democrat, a Northern Doughface. Go into yonder hall, to-day, and select any member of that body, and tell him that you are in favor of leaving the question of slavery to the people, where it belongs, and he will tell you you are a Doughface.

Sir, the Democratic party stand where they have stood since the days of JEFFERSON, who said the Missouri restriction sounded upon his ears like a fire bell in the night; that the Missouri Compromise had not quelled the slavery agitation; that the storm was only calmed for a short time. We are opposed to slavery agitation; we would check the fanatical zeal of a party which appeals only to the prejudices of the people. The Democratic party have held the control of the Government almost from its formation. Every law that has conferred a benefit upon the country, every political bless-

ing that we have enjoyed since the God of heaven blessed our Union, has been the work of the Democratic party. Every law that has thrown around us the ægis of liberty, that has given us equal rights, has been the result of Democratic rule and Democratic power. The opposition party have never put upon the records of the country a single law, not one that has remained there, or at least only until the touchstone of the people's power could be felt, until they could send representatives to repeal it. Sir, they are deranged when they get a little temporary power. They are maddened. They rush on and commit some high-handed outrage, for which the people rise in their might and expel them from place. But, sir, I have not quite done with these returns. On the 22d day of May, the Territorial Legislature passed an act entitled "An act to annex a portion of the county of Mower to the county of Olmsted." That act attaches to the county of Olmsted a precinct called High Forest. In that precinct a man by the name of ARMSTRONG, a candidate for election to this Convention, resided. It was not known in the county of Mower that this precinct had been attached to Olmstead, until two days before the election, as I am informed, which was held on the first of June. This Mr. ARMSTRONG, until that time, supposed he still resided in the county of Mower. All the facts in the case will be before us in an official form, in two or three days. As I understand, however, when the election came off, Mr. ARMSTRONG received a majority of from forty to sixty votes, in the county of Mower. This the returns show, as I am informed. Mr. PHELPS, the opposing candidate, was not here at the opening of the Convention. Why not? Because he was not considered to be elected, as I learn. But when the arrangement came to be made for the organization of the Convention, these Republican Registers of Deeds, true to the instincts of their party, true to the orders from abroad, "Tray, Blanch and Sweetheart," all rush to the rescue; and this Mr. PHELPS, who was beaten by some sixty majority, as I learn, is given the certificate of election, in consequence, as they say, of a change in the boundaries of the county of Mower, made seven or eight days before the election. I learn that, although ARMSTRONG has received a majority of the votes, he cannot take his seat in the Convention, because he lives in Olmsted county. ARMSTRONG himself, supposing he was compelled to live in the county which elected him, paid no attention to the matter. But the Republicans, finding the vote of PHELPS necessary to secure their majority in the Convention, required a certificate of election to be given to him, against the will of a majority of the people, and he occupies a seat out there in the other end of the Capitol.

ARMSTRONG, supposing he was compelled to live in the county which elected him, does not come on here to claim his seat. But sir, the people of the county of Mower had the right to elect whoever they pleased to represent them in the Constitutional Convention. The Enabling Act does not pretend to prescribe what the qualifications of members shall be. It says, the election shall be *held, conducted* and the *returns* made in all respects to conform with the Territorial elections, but it does not say what the *qualifications* of the delegates shall be. It does not prescribe that the residence of the delegates shall be in the same county for which they are elected. It says, the elections shall be *held*. That is one thing; that they shall be *conducted*; that is two things; and that the *returns* shall be made in all respects, &c.; that is three things; but there is nothing there prescribing the qualifications of delegates. This deliberative body, is, in accordance with the spirit of the provisions of the Constitution of the United States, made the judge of the election returns and qualifications of its members. It is this Constitutional Convention which is to be the judge, and not the Register of Deeds in the county of Hennepin, not the Register of Deeds in the county of Houston, not the Register of Deeds in the county of Mower. They are to receive the returns and to certify who has received the majority of votes, but there their duty, and there their power ends. It is not for them to perform *all* the functions of *civil government*. Mr. ARMSTRONG was legally and properly elected to this Convention, as I am informed, and he is legally and properly entitled to a seat on this floor.

But where shall these details of outrages end?

Mr. PRESIDENT, give this Republican party the *prestige* of power in Minnesota, and they will flood your Territory with the minions of their Emigrant Aid Societies, armed with SHARP'S rifles, perhaps, who will labor to overturn your Democratic institutions, and will inaugurate scenes of violence and bloodshed, as they have in Kansas.

So far as the proceedings of the Democratic Delegates elected to the Constitutional Convention are concerned, they have all been characterized by good order and conformity to parliamentary law and precedent. The course we had prescribed for ourselves, if we had been allowed to carry it out, was the only course which we could have properly pursued, to follow the precedent furnished us in the New Jersey contested election case—not to receive the certificate of members when we had evidence before us of their fraudulent character, as *prima facie* evidence, but to require these men to stand aside until the roll had been called of undisputed delegates, and a quorum appeared in their seats.

There is one other matter which I propose to notice just at this point. I have before me the proceedings of what is called "The Convention," sitting in the other end of the Capitol, published in the *Minnesotian*, in which I see a resolution was introduced and passed, that members to the Constitutional Convention, legally elected (meaning Democrats) might have permission to come in there (provided, I suppose, they would come without pistols and bowie-knives,) and take seats with them. Mr. COGSWELL is represented as having indicated to us in a loving speech that he is for fair play. Some of them tell us that if we will come in there, they will turn out the bogus members and will do the right thing. Now, sir, we have to decide what they will do by what they have done. We must look to the future and judge of the past. There is no other rule by which these men can be judged. Suppose we were to go in there; we would find men sitting there who have no more right to seats in this Constitutional Convention than so many men from yonder stone quarry. We should insist on following the rule, with regard to these men, laid down in the New Jersey case. We should demand that the precedents furnished by the acts of Congress should be followed. If they refused, there would be violence very likely, and they knew it. It would furnish food for fanaticism, and that is what they want. I will not go in there unless it is to recognize the voice of the people at the ballot-box. If they will agree that the persons having a majority of the votes of the people as expressed at the ballot-box, for delegates to this Constitutional Convention, disregarding technicalities, disregarding informality, taking the voice of the people as fairly expressed, and will come in to assist *us in our organization*, they are bid to come. But we recognize no power in this assembly but the voice of the sovereign people.

Mr. PRESIDENT—God gave us, in exactly the right time, a WASHINGTON to conquer tyranny. He has given us, in exactly the right time, free institutions, which we are to perpetuate. He has given us, in exactly the right time, the genius of a FRANKLIN, which chained the lightning, and held it obedient to his will until enterprise and science could apply it to useful purposes. He has given us, in exactly the right time, a FULTON, to apply steam to navigation purposes, to be used in the commerce of the world for the benefit of mankind, and to alleviate the condition of the human family. He has given us, in exactly the right time, the government of nearly all the North American Continent, to enlarge the area of freedom, and to perpetuate liberal institutions. He has given us, in exactly the right time, the spread and progress of our free

institutions, until all Europe is in a blaze under the radiating influence of our Republic. Revolution succeeds revolution for freedom, under the influence of our national example. That light is shining now upon the Continent of Europe, and crowns and principalities are trembling before it.

Sir, I believe Providence, in shaping the destiny of this country, will continue the power and influence of the Democratic party, which established human rights and civil liberty in this Union of States, and which, from its very existence, has been progressing steadily forward in its power. It has sometimes for a brief period been defeated, but only to rally again purified, and with new strength. We have extended the area of our liberty by the light of our example. Liberty and equality has been obtained through the agency and power of the Democratic party. We now have thirty-one States, twenty-nine of which came in under the *prestige* of Democratic power. We are in the enjoyment of all the blessings that ever were intended for men to enjoy, no one of which ever emanated from any law or any action of any power, save the power of the Democratic party, from the adoption of our Constitution in 1789, to the present hour. No other party has ever obtained temporary possession of this government that it has not been hurled from it by the American people as soon as sober second thought could be heard. Under the influence and control of that party, we have added empires to our domain. We have added to our possessions the golden sands of California. We have spread out before the world our broad prairies, giving homes to the homeless, lands to the landless, and liberty to all.

On motion of Mr. BECKER, at one o'clock, the Convention adjourned until to-morrow at 10 o'clock, A. M.

ELEVENTH DAY.

FRIDAY, July 24, 1857.

The Convention met at 10 o'clock, A. M.

The Journal of yesterday was read.

PUBLICATION OF THE DEBATES.

Mr. BROWN. From the reading of the Journal, I see that mention is only made of the fact that Mr. GORMAN addressed the Convention. I think the views expressed in this Convention should be set forth in the Journal. If the Secretary is not authorized to

pursue that course, I will move that the arguments made in this Convention upon the various subjects before it, be embodied in the Journal.

Mr. SETZER. I rise to a question of order. The proposition of the gentleman is not in order unless he offers it as an amendment to the Journal.

The PRESIDENT *pro tempore*. The Chair will state that he cannot entertain the proposition, unless it is offered in the form of an amendment or correction to the Journal. If the gentleman moves to do that, it comes up as a privileged question. The Chair will state further, that it is not a part of the duty of the Secretary of the Convention, to embody in the Journal the arguments made by gentlemen here. If that course is pursued it must be by express order of the Convention.

Mr. BROWN. My motion is that the Journal of yesterday be so amended as to embody in it, the arguments which were made in Convention; and that the Secretary be instructed hereafter in making up the Journal, to embody in it the arguments which are made upon the various subjects which shall come before the Convention. My object is that there may be an official record kept of all our proceedings.

The PRESIDENT *pro tempore*. Will the gentleman designate whether he intends that the arguments shall be spread *in extenso* upon the Journal.

Mr. BROWN. *In extenso*.

Mr. SETZER. I am not prepared at this time to vote either in the affirmative or negative upon the motion of the gentleman, but my impression is, that it is unnecessary for us to adopt such an order as he proposes. The Journals of the Convention should be made as short as possible. We have an official Reporter, who will of course make out an official record of these Debates, which will be published by order of the Convention; but the Journal is a separate matter. The Journal is read to the Convention every morning. The Secretary cannot write out and have published these Debates, nor can we have them read to us every morning. The thing would be impracticable. Let the Journal be kept separate, and at the end of the Session, we can order the Debates, as written out by the official Reporter, to be published as an Appendix to the Journal.

Mr. BROWN. The gentleman and myself differ. Admitting that we have an official Reporter, which we have, and that the Debates as written out by him, will be published in an Appendix at the end of the Journal. It will be very inconvenient when we

want to find the debate upon any matter, contained in the Journal to hunt for it in the Appendix. What I want is that the Debates shall be found in that book in the exact position, in which they occurred in this body. It will be entailing no additional labor upon the Secretary, because these Debates, when written out by the official Reporter, will be handed to him and he may insert them in the proper place. I think it is important that the Debates of the Convention should be spread out on the Journal, so that the people may have before them in an official form, the entire proceedings of this body.

Mr. BECKER. I do not see precisely how the mover of that resolution proposes to accomplish his object. It will be impossible to incorporate into our daily Journal a *verbatim* report of all the speeches that are made on this floor. If anything of the kind is done, it must be a mere abstract or digest of the speeches. Now, upon whom will it devolve to make out that abstract or digest? The Secretary or the official Reporter? I should be in favor of doing it if it were possible, but it seems to me to be impracticable. I am desirous of having our debates spread before the people if it can be done in a proper manner. I think the best way to accomplish that object, however, is to publish the speeches in pamphlet form and circulate them, or to circulate them through the press of the Territory. Gentlemen must see that it would be utterly impracticable to spread out upon the Journal of the next morning, so lengthy a speech as that to which we listened yesterday. I am desirous that Gov. GORMAN'S speech shall receive as wide a circulation as possible, but it seems to me the proper way to accomplish that object would be to publish it in pamphlet form and circulate it by the members of the Convention. The effect of making the Journal so long as all these speeches would make it, would be, perhaps, that the people would not read it at all.

Mr. HOLCOMBE. I hope the motion of the gentleman from Sibley, will be adopted. My object is not that these debates shall be embodied in the Journal as read to us each morning, but that provision shall be made for incorporating them with the Journal as finally published. When it is thus published, and becomes one of the permanent documents of the country, some years hence it will be read with a great deal of interest. I think it is perfectly proper that the debates of this Convention should appear upon the pages of our Journal. Such a course would, to my mind be highly proper, and I therefore second the motion of the gentleman from Sibley. I would even go further than his resolution would indicate. I would also have the proceedings in Committee of the Whole reported

and spread upon the Journal. I do not want anything left out. I hope the motion will be adopted.

Mr. SETZER. Why, sir, the proceedings in Committee of the Whole, according to all precedent, cannot go upon the Journal.—Let the debates of the Convention be reported and published in an Appendix at the end of the Journal.

Mr. BROWN. As far as the impracticability is concerned, I cannot see any difference in publishing it at the end of the Journal as an Appendix, and publishing it in its proper place in the proceedings of the Convention. I, too, should like to see the remarks of gentlemen on this floor, and particularly of Gov. GORMAN, made yesterday, spread before the Convention in pamphlet form. But when you have sent them abroad in that form, you have not made a record of them. My object is to make an official record of the proceedings that take place in this Convention. I want it for future reference as an official record, and to place before the people as such. I believe with the gentleman from Stillwater, (Mr. HOLCOMBE,) that no proceedings should take place in Committee of the Whole that does not appear upon the Journal. I can see no necessity for a Committee of the Whole in this body except for the purpose of giving the President an opportunity of participating in the debate.—Sir, if the proceedings of this Convention are to be published at all, why not follow the course pursued by Congress, and have them appear in their proper place?

Mr. A. E. AMES. I wish to ask the gentleman from Sibley County if he intends to have the remarks which have already been submitted heretofore, also appear in the Journal?

Mr. BROWN. I should wish that to be done, though this is not the proper place, perhaps, to make the motion.

Mr. AMES. In that case, I think the motion of the gentleman is a proper one to be adopted. I want to see the remarks of the Delegates upon every subject that shall come before the Convention, which leads to debate. I want to give the opportunity to every man who shall examine our course, to understand the reasons which influenced our action. I want to place on record all the whys and wherefores, and reasons for our course.

Mr. BECKER. I consider it exceedingly desirable that the Debates of the Convention should go on record; and I understand that provision has been made to accomplish that object, by requesting the attendance of a Reporter whom, probably, we shall designate as the Official Reporter of the Convention. He will publish the entire proceedings in a volume styled "The Debates and Proceedings of the Constitutional Convention"—which volume

we shall perhaps attach as an appendix to our Journal. But, it seems to me that it will be utterly impossible to incorporate in our Daily Journal what the gentleman wishes. Let the Journal be made up as it is now, and the Debates will be in progress of publication during the session of the Convention, and we can attach them to the Journal and accomplish all the gentleman desires.

Mr. BROWN. But unofficially.

Mr. BECKER. No sir. The Reporter to be employed will be the Official Reporter, and that will give our official sanction to the Debates as reported by him. His record will comprise everything that transpires, and we can give it our official sanction.

Mr. SETZER. I call the attention of the Convention to another fact. Our Journal is brought in here every morning on printed slips. If these Debates are all to be incorporated in it, the expenses of printing will swell up enormously, and we shall have to go before the people with all this expense for nothing.

Mr. HOLCOMBE. The objection the gentleman suggests to the expense of printing these Debates from day to day, I propose to obviate, by moving to amend the original motion so as to instruct the Secretary to indicate on the Journal the points where the Speeches occur, so that they may be inserted in their proper places when the Journal is made up for final publication at the close of the session.

M. BROWN. That is precisely what I wish to accomplish.

Mr. WARNER. I think the resolution is a proper one. I think the Debates of this Convention should be taken down from day to day as they occur, and placed upon the record. The people want to know our action, and the only way to justify ourselves before them, is to place before them the official record showing our whole proceedings.

Mr. BROWN. After conversation with the Reporter, I am inclined to change the phraseology of the resolution. Every motion that is made, every subject that is introduced into the Convention, is taken down by him, every procedure upon our part is made a matter of record by him. I want, therefore, that the record taken by him shall be made the official record of the Convention. At the suggestion of the gentleman from Stillwater, (Mr. HOLBOMBE) I will offer my proposition in this form:

RESOLVED, That in making up the Journal of this Convention, all speeches and arguments may be so referred to in the Journal, by reference in their order of delivery, so they may be conveniently inserted in their proper place on its final and permanent publication.

Mr. GORMAN. I understand the official proceedings of the Convention will be the Journal, and I think the resolution is a proper

one to be adopted. The official proceedings commence from the time the chair takes his seat in the morning. The first proceeding is the reading of the Journal of the preceding day, made up as the Secretary makes it up, now containing nothing except an account of the business actually done in Convention. But the Reporter records every thing that occurs—the arguments upon resolutions, motions and reports,—all that transpires in Committee of the Whole, all that is said and done, even *sotto voce* expressions made by members in their seats. Every thing is taken down and made a part of the official record, and will be incorporated in the Journal. When the book is published, it will be styled "The Journal and Debates of the Constitutional Convention of Minnesota."

Mr. SHERBURNE. I agree perfectly with the gentleman as to what should be the result of publishing these proceedings, but in the manner of coming to that result, I certainly disagree with him. Our official acts as I understand them, comprehend our votes upon subjects before the Convention, the direct action of the Convention, which the Secretary is bound to record. That, I hold to be one distinct thing. Then we have an official Reporter, and I suppose him to be here for some purpose. If it is to be committed to the Secretary to make up the Journal, consisting of the Debates and all, I apprehend it will generally occur that when the reading of the Journal is called for the Convention to pass its action upon, we shall find as we have for two or three mornings past, that the Journal is not made up, and the reading will have to be dispensed with. For the Secretary to make up such a record is totally impracticable. I hold that it is the duty of the Secretary to record the acts of the Convention and the duty of the Reporter to record the arguments. Of course the Journal of the Secretary will be passed upon by the house, and if the record of the Reporter differs, he will correct it by the Journal. One of these officers is for one purpose and the other for another. It strikes me, therefore, that there is an impropriety in the resolution which has been offered.

The question was taken and the resolution adopted.

The Journal was then approved.

CONDUCT OF THE REPUBLICANS.

The PRESIDENT *pro tempore*, stated that the business regularly in order was the Preamble and Resolutions offered the day before yesterday, by the gentleman from Nicollet, (Mr. FLANDRAU.)

The Resolutions were reported.

Mr. SETZER. I do not propose to take up the time of this Con-

vention to any considerable extent, but as a Delegate representing, on this floor, a portion of the people of Minnesota, I deem it a duty to my constituents and to myself, briefly, to review the course of events for the three or four weeks past. These events prove conclusively, that the Republican party throughout the Territory, had made up their minds to carry this Convention by fair means, if they could, and that fraud and violence were also means within their contemplation, to accomplish that end. Even during the day of election, it is proven that the Republicans in Saint Anthony, tried to incite certain parties to take possession of the polls and prevent Democrats from voting. That, so far as I know, was their first step to accomplish their object by foul means.

The conduct of their Registers of Deeds throughout the Territory, has been commented on with so much justice by the gentleman from Saint Paul, (Mr. GORMAN,) as to require only a passing notice from me. But, sir, these criminals were so suddenly brought to justice that the Republicans found their game, in that direction, would not work well, and was not sufficient in itself to secure the Convention for them. And what did they do next?

They found it necessary to bring their members here before the time appointed for the meeting of the Convention, and to quiet down whatever scruples some of the more honorable men among them might have had. The *Minnesotian* was selected for the purpose. That immaculate sheet came out with an article to effect that object. It did not dare call upon the members of the party to meet at the Capitol before the time appointed, without giving some reason for it. It therefore announced that the Democratic Central Committee had issued a circular, calling upon the members belonging to that party, to meet here previous to the time appointed for the Convention to convene, intimating that it was their intention to play some trick, to practice some fraud upon the Republican members.

This, sir was false, utterly false, but it served its object. The Republicans assembled here some days before the time for the meeting of the Convention. Their leaders stated to them in caucus, the depravity of the Democratic party, and the tricks they had previously resorted to, and appealed to the Republicans not to submit to the infamous course the Democrats had before carried out in this Capitol.

I will, just here, state a circumstance of no great importance one way or the other in itself, but to show the *animus* which controls this lovely party. On the Sabbath day, previous to the meeting of the Convention, a Committee of Republicans came to the Fuller

House to confer with the Democrats on political subjects. On Tuesday, the *Minnesotian* came out and said the Democrats had been caucusing on the Sabbath. Well, sir, I do not say that the Democrats would not meet on the Sabbath day under certain contingencies. I, myself, claim no great amount of piety in comparison with the piety party of the Territory; but still, I think the members of that party have sufficient regard for the Lord's day, not to engage in political caucusing on that day. But, sir, when that Committee of this party of virtue and morality, came there with a proposition, requesting an answer, and insisting on an answer, some of our Democratic friends met together and told them we would give them an answer the next morning. This is the caucusing to which the *Minnesotian* so piously alludes.

The facts connected with our first meeting in this Capitol, on the 13th instant, have also been alluded to by the gentleman from St. Paul, (Mr. GORMAN,) and they have been fully sustained. I can only say, that I endorse his views most thoroughly. But, sir, the whole course of the Republican party has been so strange from the very initiative, that I cannot account for it in any other manner than by supposing that they knew their weakness, and then by supposing that they were aware they were doing wrong in taking possession of the House of Representatives several hours before the time of meeting agreed upon, and holding it, with ruffians outside with arms which they pretended to conceal, but did not conceal; and then when the motion was made and carried to adjourn, remaining in the Hall and pretending to organize the Convention. The whole facts bear upon their face, evidence of guilt. If they were certain of their majority, and if they knew their members were duly and honorably elected, why did they not adjourn with us to meet the next day? If, as they say, they were taken by surprise—and by the by, the remark of the gentleman from St. Paul, that we cannot give them brains, is well put—and were certain of their majority they might have adjourned, and in the course of the twenty-four hours following, have been prepared for the motion and adjourned. But, sir, that is not the course they had marked out. They thought they could, by pursuing this course, seduce the Democracy from the whole stand they had taken and bring on a personal collision. This personal collision was sought for the purpose of covering over the wrong they had committed, for the purpose of appealing to the sympathy of the people, and in the excitement that would follow, conceal their infamy and shame.

One of the gentlemen in that body in alluding to an imaginary opponent, said he should pass over his dead body. But it appeared

that nobody wanted his carcass. His opponents acting, perhaps, on the principle that a live donkey is worth more than a dead lion, did not molest him, and the gentleman is now, I believe, enjoying his pudding as well as he ever did. But, as I said, it was their purpose that violence should be used, and for that purpose their myrmidons were gathered outside the Hall. For that purpose, they kept possession of the Hall day after day, and night after night, to show the people what they suffered for the faith.

The course of the Democracy from the first has been characterized by firmness, calmness and deliberation. They have avoided the rocks on which they were likely to split; they have strictly confined themselves within the limits of parliamentary and civil law. And now, sir, I say that the Republican members could at any time have come in with their certificates and presented them here, as the Democrats have done, but they cannot come in in any other manner. Now, sir, I have made these few remarks for the purpose of expressing my full concurrence in the views expressed by the gentleman from St. Paul yesterday, and in order, so far as I am concerned, fully to commit myself to those views.

But there is one thing to which I will refer before taking my seat. The gentleman from St. Paul said the Democracy in the Northern States were not a pro-slavery party, as accused by the the Free Soilers. I concur fully in the sentiment, but I go further. The Democratic creed is the same, North, South, East and West. We stand upon the Cincinnati platform. We oppose the centralization of power by the Federal Government except within the express limits fixed by the Constitution, and we will defend the rights of the States and Territories. This, in few words, comprises the creed of the great Democratic party, not only in the North, but in the whole United States. Sir, I would state a single fact in evidence of this position. I believe the position is not doubted by any one on this floor, but as the fact is not generally known, it will show the position of the Democracy of the Southern States.

During the session of the Legislature of the State of Missouri last winter, the question of the election of Bank Directors for the State Bank, came up; and in caucus of the National Democracy in contradistinction to the Benton Democracy of the State, it was stated that one of the candidates nominated by this party by the name of PALMER, from St. Louis, was an Emancipationist. Some of the men from the Western portion of the State opposed him on that ground. It was stated that he endorsed the Kansas and Nebraska Bill, that he approved the platform of Democratic principles, and the Democratic party of that so-called Border Ruffian State, then

and there declared that if Mr. PALMER was a Democrat, although he was an Emancipationist, he had received the endorsement of the regular Democratic caucus and he should be elected.

This shows precisely the position of the Democratic party, not only in the North, but in the Union. All we ask is, that you shall let the people take care of themselves, and that the powers of Congress shall be circumscribed within the limits fixed by the Constitution. This, sir, is the platform upon which we stand, and upon which we have stood ever since the dawn of our political day. I do not make this statement as a record of my private opinions. Many Democrats hold sentiments directly in favor of Slavery, and perhaps, I among the number. But I say that the creed I have mentioned is the creed of the Democratic party of the Union.

Mr. A. E. AMES. I fully endorse the resolutions offered by the gentleman from Nicollet, and fully coincide with the views yesterday expressed by the gentleman from St. Paul (Mr. GORMAN.) But this does not appear to me the proper time to proceed to the adoption of that preamble and resolution, and I propose before I sit down to move to postpone its further consideration until some hour, and proceed to the election of officers for the permanent organization of the Convention. Perhaps it may seem proper upon the part of some of the gentlemen present, that the members should first be sworn in. I have no especial objection to that course if we are to be sworn in at all. I am one of those who do not believe the members of this Convention should take any oath. There is no law prescribing it, to my knowledge. I do not know that any Convention convened for the purpose of forming a Constitution ever did take any oath of office. What are we to swear to support?

A MEMBER. The Constitution of the United States.

Mr. AMES. We are placed in the same position that we should be in a primary meeting of the people. We are here for the purpose of forming a draft of a Constitution, and of submitting it to the people to see if it will meet their wishes. Who ever heard of the people taking an oath for doing what it is their right to do? We are simply to make a draft of a Constitution; if the people like it they will take it; if they do not, they will not. That is all. For the purpose of affording an opportunity of proceeding to the election of officers, I will move to postpone the further consideration of this resolution until one o'clock.

At the suggestion of gentlemen around him, Mr. AMES withdrew the motion.

Mr. WARNER. The Republican papers of this Territory, especially the *Minnesotian* and *Times* of this city, have been filled with

accounts of a certain meeting held in Scott county, denouncing the course of conduct pursued by the delegation in this Convention from that county.

Mr. PRESIDENT, I stand here as a representative of Scott county, and I think that, with my colleagues on this floor, I represent the interests of that county. I have further to say that that meeting to which these papers have alluded, was no representation of the sentiment of that county. It was composed mostly of men who are not identified with any political party, and never were. If you were to ask any one of them what political principles they represent, he would answer *non comeatibus in swampo* (Laughter.) The interpretation of which, as near as I can come at it, is, we are in the swamp, and you can't get at us.

Sir, there was a meeting held there subsequently, by a class of men who do represent the political sentiments of Scott county. They assembled to the number of one hundred—the prior meeting contained between twelve and twenty men—and they adopted resolutions expressing the sentiments of that county. I can say it here, that the Democracy, and the people in general, of Scott county endorse fully the course which the Democratic delegates to the Constitutional Convention have taken.

I was not here on the day of the meeting of this Convention. I reached here soon after the adjournment had taken place, and heard what was said in reference to the proceedings of that day, by both Republicans and Democrats, and I became fully satisfied, from the statement of facts which I heard, that the Democratic party were right, as they ever have been. I endorse fully all the proceedings which have been had here upon the part of the Democratic portion of the Constitutional Convention. We met and adjourned, and in accordance with all precedent and parliamentary law we are here to-day the legally constituted Constitutional Convention of Minnesota. It comes with very little grace for these men who have been charging that we were rebellious—that we were not true to the principles we had advocated—to charge this now. If they will believe the records of the proceedings of this Convention, the people will justify us in the course we have pursued.

Mr. STREETER. I do not propose to go at length into a discussion of the merits of the resolution before the Convention. Had I the ability to do so, the ground has been traversed by men whose experience and ability, are more than competent to the task. I shall confine my remarks to the celebrated Houston county case. I stand here as a Delegate from Houston county, elected by fifty-

nine majority, over my opponent who now occupies a seat in the body sitting in the other end of the Capitol.

Mr. BROWN. Republican Camp. [Laughter.]

Mr. STREETER. Yes sir, who occupies a seat in the Republican Camp. I do not occupy the position, the *Minnesotian*, a little dirty sheet published in this city, has placed me in. In that paper of the 22nd or 23rd instant, the Editor gives me credit for having received three votes. O. W. STREETER, he says, received three votes in Houston county, while Mr. COE received nearly four hundred.

Mr. PRESIDENT, I came to this Convention with an abstract certified by the Register of Deeds, who now holds a seat in the other end of the Capitol, showing that I received three hundred and eighty votes in the county of Houston, and that I did not receive one vote out of that county; and that my opponent Mr. COE received three hundred and twenty-nine votes, and did not receive one vote out of that county. The election was held in pursuance of a notice signed by this same Register of Deeds, JAMES A. McCAN, caling for the election of five Delegates from the county of Houston. It was so understood by the voters of that county and and so acted on; and yet the Editor of the *Minnesotian* places me in the position of having received three votes, and then of claiming a seat in this Convention!

Sir, the notice was posted up in that county in accordance with the law of the Territory, that five Delegates were to be elected from Houston county for the Convention. Acting in accordance with the notice, the Democrats held a meeting and nominated five candidates, two of whom were elected. Mr. DAY who holds a seat here, as one of the County Commissioners, was called on to assist in canvassing the vote, and I ask him whether after the canvass was completed, this same JAMES A. McCAN did not himself publicly declare, and whether it was not publicly understood in the vicinity, that Mr. COE was not elected? I say without fear of contradiction, that such was the fact, that McCAN declared publicly and has told it abroad, that Mr. COE was not entitled to a certificate, and that he could not and would not give him one. I believe I can say that he did not give Mr. COE a certificate until he came here, and was induced to do so by his Republican friends. Mr. COE has told me since I came here, that he did not consider himself elected as a member of the Convention, and that he did not propose to come here and claim a seat. But when the *Minnesotian*, the leading abolition paper of the Territory claimed that the Republicans had eighteen majority in the Convention, our little Pet THOMPSON called

his Republican friends together and held a caucus, the result of which was, that inasmuch as there was a Republican majority in the Convention, Mr. COE must come on, and right or wrong, he must have a seat in the Convention. And when Mr. COE still refused to come, these Republicans went further and agreed to pay his expenses here; and I believe agreed to pay his expenses while he was here. That is the position Mr. COE occupies, and that is the position Mr. MCCAN occupies, in this Convention.

And, sir, I will go further. I am prepared to state that previous to the issuing of the notice of election, a copy of which is in the hands of the Secretary of the Territory, this J. A. MCCAN read to me a letter, written, I think, by the Register of Deeds for the county of Mower, which letter stated that as the two counties were entitled to two Delegates at Large, it was necessary that they should elect one in Houston and one in Mower.

Circumstances beyond my control, prevented me from attending the Democratic Nominating Convention, but acting upon the notice given, and believing that to be the only legal mode, they made out their ticket in accordance with it. No other notice was given, and if there was any illegality about it, it is plain as night is from day, that this Register of Deeds intended to perpetrate a fraud upon the people of Houston county. I am ready to substantiate every word I say, and I can do it without going to the county of Houston. I have evidence in the other end of this Capitol. I am not afraid to submit it to the affidavits of men sitting in that Hall, or to call them upon the stand.

But, Mr. PRESIDENT, I believe that no such distinction as Delegate at Large is authorized by law. There is nothing in the Enabling Act or in any act of the Territorial Legislature authorizing it. The word is not named in any law, and you might as well make the distinction of Delegate at Small or of any other term, as that. I would like to know where the term is derived from, or where the authority is found, which makes it necessary only for men to have a minority of votes to entitle them to seats in this Convention? Indeed, I do not know but it is necessary for men to have only a minority to entitle them to seats, for that seems to be the rule adopted by the Republicans.

Mr. HOLCOMBE. I fully endorse and appreciate those resolutions, and as developments are being made every moment around us that justify us in the position we have taken, it strikes me as eminently proper that every man on this floor should endorse the resolutions, not merely by recording his vote in favor of it, but that he should rise in his place and tell us that he approves the

course we have taken. I am very glad we have acted as deliberately as we have. I think it was incumbent on us to lay broad and deep the foundations of this structure which we are about to erect, and when we have effected a permanent organization, I hope we shall be ready to go to work calmly, willingly, and like useful men.

I came into this Capitol about mid-day, on the 13th of July. The Convention had just adjourned, and then, if I am rightly informed, began the great blunder of the Republicans, which we propose in this resolution to denounce as revolutionary, and unbecoming to citizens of Minnesota. And Mr. PRESIDENT, if you will pardon me, I hope this resolution will not pass until you have submitted your views in regard to this matter; for I am proud to say that you are well and honorably known in this Territory. I hope the resolution will not pass until every gentleman here shall have said something upon it. I endorse, and most fully, everything that has been said, and especially by the gentleman who delivered his speech to the Convention yesterday. I hope we shall hear from every gentleman upon this subject.

Mr. WAIT. Before the vote is taken on the final passage of these resolutions, I wish to express my hearty concurrence in the resolutions themselves, and in all that has fallen from the lips of the gentlemen who preceded me. I do not expect to add anything to the arguments that have been adduced in support of the Democratic party in this Convention. I expect there are men here of greater ability and more enlarged experience, who can explain the position of our party before the people with much greater logical power than I shall be able to do.

It is well known to this Convention that the Republican papers of this Territory, have circulated slanders in respect to the position I occupy in this Convention; personal slanders, and slanders which I here repel. They have charged me with political treachery, and with perfidy towards the Republican party; with, after having accepted the nomination of the Republican party, coming here to St. Paul, and allowing myself to be bought up and made a tool of by the Democratic party.

Mr. PRESIDENT, these charges are false, as the assertions and testimony of my honorable colleagues here will attest. It is true, I was nominated by the Republican party, but the nomination was made without my knowledge or consent. It is true further, that when the Democratic party met in Convention for the purpose of nominating candidates to this Convention they intended to have nominated me, and would have done so, but for the action of the Republicans in giving me a prior nomination.

This nomination reached me a few days before the election, and there are gentlemen here who will bear me witness that I openly and candidly avowed myself to be a Democrat. I avowed myself an advocate of the principles of that party, and said that the principles which had governed me in the past should regulate my future action.

These are facts, as I am prepared to prove. I know full well the reasons which have actuated those who have incited these newspaper paragraphs. I know well the objects the Republican party have in spreading these slanders—these libels on my course—and I know full well the course I intend to pursue in future. If any of the Republicans have been foolish enough to suppose they could flatter me into their party by offering me a nomination, I have simply to say they have been mistaken.

The position the Democratic party has assumed in this Convention is, in my judgment, a correct position. And, sir, had I come here filled with the greatest zeal for Republican principles—had I been actuated by the greatest amount of fanaticism—had my mind been acted upon by the principles which they have sent forth to the world, as the ruling principles of their party—coming here as I did and seeing the positions of the two parties on the 13th of July, I, as an honest man, could have taken no other course than the one I pursued. I believe the Democratic party took the only true position, and that their position is supported by the rules of parliamentary law, and the usages which have governed deliberative bodies previous to this time.

I believe, on the other hand, that the course pursued by the Republican party is revolutionary, and is such as is expressed in the language of that resolution. Believing this—laying aside all party prejudices—laying aside everything, and coming down to the simple question of honesty, I could have taken no other position than the one I did take, which was with the Democratic party. I believe their position is fully sustained, and that when the facts are spread upon record and these records are cast abroad in the country, the people will fully sustain the action of this body.

Mr. BROWN. Before the vote is taken, I wish to say to the Convention, that I endorse these resolutions, and the position taken by the Democratic members of this Convention, fully and completely. So far as the remarks of the gentleman from St. Paul (Mr. GORMAN) are concerned, I think they covered the whole ground very clearly. I do not know that I would dot an *i* or cross a *t* in them. They gave a straight-forward, true statement of the position oc-

cupied by the Democratic members of this Convention, and of the course pursued by the Republicans in the other end of the Capitol.

Before taking any seat, however, I will state that I think gentlemen on this floor are giving entirely too much celebrity to the Republican prints of this city and other portions of this Territory. They are paying too much attention to the falsehoods published in these papers. The gentleman from Stillwater, (Mr. HOLCOMBE,) the gentleman from Houston county, (Mr. STREETER,) and the gentleman from Stearns county, (Mr. WAIT,) all have referred to articles in the Republican papers which contained falsehoods. Now, I would ask gentlemen to be courteous towards these prints. It is well known, that the fundamental principles of the Republican party, are "fraud, deceit and lies, for the purpose of deceiving the people of the Territory and the Union." [Laughter.]

Take falsehood and deception from their articles and they are no longer Republican. Then let them in peace carry out the principles of their party. Do not ask them to diverge from them; do not ask them to cover them up. They ought to be allowed to blaze high, (renewed laughter) that the people, and more especially their own party, may be convinced that they are the true exponents of the principles of their own party. The Republican press of Saint Paul and of the Territory, have taken positions which I hold are essential to their being recognized as the organs of their party. Their object has been to deceive the people into the belief that the Republicans had a majority in the Convention. For the purpose of counting that majority, they have stated that certain persons were elected as members of the Convention who, they well knew, were entitled to no such position. They have stated as a part of the programme of the party, that certain persons were debarred the right to seats in the Convention for reasons which they knew to be false. They took away, in their publication of the list of members who were to receive seats in the Convention, the rights of members of the Convention which they knew those members possessed. In short, they have practised fraud and deception, the main features in their political creed, as was their duty as faithful exponents of that creed.

In the first place, they took the ground that no federal officer was entitled to a seat in this Convention; that they were excluded by law. What law? the people will ask. The law of Congress is the only one that can have any binding effect upon this Convention. Does the Enabling Act exclude federal officers from seats in this body? Do not the precedents in the Constitutional Conventions of nearly all the Western Territories show that federal officers

have almost invariably held seats in those Conventions. Did not Judge DUNN, who sat upon the Supreme Bench in Wisconsin, hold a seat in the Convention which formed a Constitution for that State?

They professed, the other day, to believe that there was no legal representation from Pembina. They told the people that the representation from that district was a fraud; that the whole population of the District resided west of the line designated by Congress, while they well knew that there were many citizens of Pembina county residing east of the line who had as perfect a right to send delegates to this Convention as the people of any other District in thn Territory, and that no election had been held in Pembina county by citizens west of that line. But all this was carrying out the principles of their party, and they were perfectly right, as party organs, in saying anything that would tend to deceive and mislead the people.

Again, they have spread to the world that a gentleman having 329 votes in Houston county was elected over another gentleman having 378 votes. I presume the arguments used by the Republican leaders in St. Paul, however, satisfied the Register of Deeds in Houston county that 329 was a clear majority of 707, and that according to the principles of the Republican party, the Republican with 329 votes was duly elected, and entitled to a certificate.

All these things, Mr. PRESIDENT, are in perfect accordance with the usages and customs of the Republican party, and I do hope that their presses will not be censured for promulgating those principles. As well might you ask a fish to live without water, as a Republican press to exist without lies, and I think it is giving them too much character to notice them, and it is certainly unjust to censure them while they do not abandon their principles. If they will only keep aloof from the Democratic party, and will confine themselves to their own doctrines, I believe we should let them alone and not interfere with them.

The resolution under consideration declares that the course pursued by certain of our citizens in the other end of the Capitol, is contrary to law and revolutionary in its character. These are hard terms, but still I believe they are correct. I believe they are true. In fact, they can be clearly proved from the official records now in the possession of this body. There is no question at all, that the Convention met on the 13th instant, in the proper hall, legally, and in accordance with the suggestions made by Congress. There is no doubt that the Secretary of the Territory, as a member of the Convention, to say nothing of his right as Secretary, properly called the Convention to order, in obedience to the request of a

large number of the members of the Convention, duly elected as such. There is no doubt that the motion to adjourn was made, recognized and put previous to any other motion being made in the Convention. Then, sir, the motion to adjourn being clearly and distinctly made, properly voted upon, both in the affirmative and negative, and distinctly declared to have prevailed, the members of that Convention who proceeded to organize as a Convention in violation of that adjournment, acted in a revolutionary manner and in violation of law. The moment the motion to adjourn was entertained by Mr. CHASE, it became the property of the whole Convention, and could not be interrupted, except in a revolutionary and unlawful manner.

Although the means was in the power of the revolutionary members, although they claimed and probably had a majority of delegates in Convention on that day, and therefore could have prevented the motion to adjourn from being carried if they had called for a division and had outcounted those favoring the adjournment; yet no objection was made to Mr. CHASE putting the motion; no objection to his decision of the vote, and the adjournment was legal and binding. The whole course of that assembly in the other end of the Capitol, therefore, from the moment Mr. CHASE decided the Convention adjourned on that day, is revolutionary and without authority of law. Still less can there be an excuse for their procedure on the following day. Even admitting the propriety of their session previous to twelve o'clock, they could then have adjourned or taken a recess to admit of the meeting of the whole Convention, and could then have voted down any and all propositions not in accordance with their views, and then might have consummated their desired organization. But did they do so? No, sir; they insisted that the Convention which they had organized was *the* Convention, and refused to allow us any participation in their proceedings, or even the right to occupy the room they occupied, unless we would recognize their organization, which we held to be unlawful and revolutionary.

I think the terms of that resolution, harsh as they are, represent the facts as they exist, and I feel satisfied there is not a member of this body who has been conversant with all the proceedings as far as they have progressed, who is not well convinced that there has not been a step taken by the Republican members of this Convention as detailed in the preamble and resolutions which is not true to the letter, and I therefore feel confident that the propriety, as well as the necessity, of the adoption of the resolutions, are recognized and endorsed by every member in this hall, and will

also be recognized and endorsed by a very large majority of the people of the Territory.

Mr. SHERBURNE. I have not risen to detain the Convention, with any very lentghy remarks. We have been called on by different members of the Convention, each member almost separately, to state his opinion upon the resolutions now before us. I hold, Mr. PRESIDENT, that my vote would be as good as any remark I could make, but I am willing to raise my voice in favor of any resolution that I would vote for here, and that is about the only object I have in rising at this time. I am willing to meet the facts as they have transpired in the last twelve or fifteen days in the face, and take them step by step, and defend each in its order if necessary.

It is unnecessary again to go through a detailed statement of ths facts with which we are all conversant. It is true that there are two bodies of men in this Capitol at this moment, each body claiming to be the Constitutional Convention of the Territory, and it is well for us to look at that fact as it is. We claim that we are the original Constitutional Convention of the Territory, but the other body claims with equal strength that they are the Constitutional Convention, and there arises this single question: are they right or are we right? Are they wrong or are we wrong? It is the part of wisdom for us to sit down and examine this question carefully, without party spirit, without prejudice, with the same candor that we would examine our own affairs or the affairs of other men, and determine who is in the wrong.

The first intimation that I ever heard of any attempt to arrange the organization of the Convention, was on Sunday evening at a late hour. I almost know, that up to that moment, there had never been three men of the Democratic party together, for the purpose of making any arrangement for the meeting of the Convention. They came here from different parts of the country, and a few of them happened to be together at the Hotel, where they were obliged to stop. It was necessary that some arrangements should be made for the morrow. It is usual everywhere. When they met together, almost the first fact that came to their knowledge was, that twenty-four hours in advance of that time, the Republican members had resolved that they would meet in the Capitol at 12 o'clock, on Sunday night, if they saw evidence that we were to disgrace ourselves and the Territory—if they saw evidence that we were to meet at 12 o'clock in the dead of the night, they would do so also. Mr. PRESIDENT, not a word, in my opinion, ever escaped the lips of a Democrat in the Territory, that they proposed that act. I venture to say at this moment, that such an act had never en-

tered the mind of a single Democrat, until they heard it from the Republican caucus. Our friends then were enraged for the moment; and was not there reason for it? If you invite your friend to do business with you at a certain place, and he meets you with a bowie knife and pistol in his hands, and tells you, "I will be honest with you, but remember, I have weapons in my hands, and I will control you;" would you sit down calmly and canvass your business, or would you spurn him from you? That was the manner in which we were received—with a resolution in advance indicating that they believed us to be scoundrels, not to be trusted even so far as our word for meeting was concerned; for that night they lay in encampment at the Capitol before the door of the Representatives' Hall, from 12 o'clock at night, until they were able to enter the Hall in the morning with the workmen, without breaking down the door.

If unusual proceedings would ever be justifiable, we were furnished with every reason to adopt them. I felt at the momont that we would be sustained in almost any course, after the provocation received, but my friends know that I advocated the doctrine of peace. I know how impossible it is for the world at large to obtain a correct statement, of the differences dividing two political parties. I knew we would have a second Kansas struggle. And now, sir, although we are sitting as quietly and orderly as any body of men perhaps ever did sit, you will see, when the papers return, when the presses of the East come upon us, that we are classed as Mobocrats, as Border Ruffians, and shall have applied to us the ordinary vocabulary of offensive epithets. I say there was enough to justify unusual proceedings, but did we adopt them? We sent to that body on Sunday evening, a proposition that we would meet at the usual hour, and we sent to that body, in the morning, a resolution of a Democratic caucus, saying that the usual hour was at 12 o'clock.

We could not go into the Hall one by one and sit down among ourselves, for they had possession of it. Something has been said about our going there before 12 o'clock. I say, and every gentleman here present will bear me witness, that it was our purpose and object to go there precisely at 12 o'clock. Not a single individual, I am bold to say, dreamed of going there at any other hour. We found them there. No one of them will say that they were not all there present.

But here comes the whole question. Upon this single point hangs the whole issue. After we had entered the Hall, the Convention was called to order. By whom? A great deal of discus-

sion has been had as to whether the Secretary of the Territory was the proper person to call the Convention together. Mr. NORTH, because he had the request of certain individuals upon paper, claimed that he was the proper person. Now the experience and good sense of every gentleman will dictate that no one member has any particular right over another, to call the Convention to order. The question is whether the call is responded to. There was a propriety in the Secretary of the Territory going there and calling the Convention to order. The world will say it was proper. He was a member of the Convention and officer of the Government, having charge to a certain extent of the returns of the elections of the Territory. There was a propriety and dignity in his going there and calling the Convention to order. We could not know that fifty-six or fifty-five, or any other number of men had called on Mr. NORTH to organize the Convention. Did you hear of it, Mr. PRESIDENT? Did I hear of it? Had any member of this Convention ever heard that Mr. NORTH had got a paper requesting him to call the Convention to order? But suppose we had heard of it. The most you can make out of it is that it was a trick, totally valueless, because any man in the street, I do not care who he was, might have performed the same act, and if the Convention recognized the call, when it was done, it was just as perfect as if any member of the Convention had done it.

Now sir, Mr. CHASE, went into that Hall and called the Convention to order. A motion was made, addressed to him, that the Convention should adjourn to a time certain. That motion was put distinctly by him, it was voted for as far as I can judge, by the Democratic portion of the Convention, and voted against by a small portion of the other party. I undertake to say, Mr. PRESIDENT, that you cannot perform any possible act in the organization of the Convention for one purpose or another, more perfect in itself, than was that act from beginning to end. Am I wrong? If I am wrong in the statement of facts, then the conclusion is wrong. If I am correct in the statement of facts, then their subsequent organization, and all their subsequent proceedings, have, technically speaking, been revolutionary and out of order.

There is a right and wrong in this matter; there is a truth, and a falsehood. But sir, these facts mainly are not disputed by the other party. They admit them, but attempt to avoid the conclusion by saying we were there seventeen minutes too soon. Admit it. I do not keep it in my mind the hour of the day. But they will not deny that they were there every one of them. They do not deny that they were ready to vote, as ready as they would

have been at any other hour. They do not pretend that a division of the Convention was called. They do not pretend that we did not vote them down, but they attempt to creep out on the miserable pretext that Mr. NORTH was privately invited to call the Convention to order, and that the Secretary was not a proper person to do so. Now, Mr. PRESIDENT, there is nothing in it, absolutely nothing at all. I undertake to say that it was legally, fairly and properly done, according to parliamentary rules, as far as I am conversant with them, and that we had legally and fairly and formally, the organization of the Convention.

As was justly remarked by a gentleman this morning, (Mr. BROWN,) they could have come in the next day and have voted us down, if they had the majority there, and I am willing to say that I believed they probably had. I am willing to say that we wanted to adjourn for the purpose of bringing in our members, and that we wanted it because we knew they had the legal members there to out-vote us. We knew we could not stand a chance of having the organization to which we should be entitled by the votes of the people, and, therefore, we desired there should be an adjournment. But if a division had been called, and they had voted us down, I would have been the last one to have left that Convention. I would have remained there and met them vote by vote until this day, but after the motion was put and had been carried, I could not remain there.

Well sir, what have we to do? Shall we go back there, bow down on our knees and ask admission into that Hall? Shall we do that, knowing that we are right, and have been from the beginning? I answer, no. I go for the resolution. I regret the necessity, deeply. I would have suffered wrong originally. I would have done almost anything to have averted the clamor that I know will go through the length and breadth of this land—the howling and shrieking which we have heard for years past. But sir, let it come; I will not submit to the dictation which is required of us here.

I have taken up more time than I intended. There is nothing alarming about it. Suppose we submit two Constitutions, let us go to work. It is immaterial whether we have a majority or a minority. I have felt anxious that we should have a majority, but I do not know that there is much difference between having a majority and minority for the purpose for which we are here. It is well known that there will be no working majority either here or in the other Convention. It is not possible in the nature of things. We have got to work with a less number than fifty-five

members, and so have they. Let us go to work then like men. Let us submit our Constitution to the people, and I believe they will sustain us when the facts are before them. [Applause.]

Mr. CURTIS. I do not propose to occupy the attention of the Convention for any great length of time. After the array of facts and arguments which have been presented to day by different gentlemen, it would be a work of supererogation. And, I apprehend that there are no members upon this floor who need any more convincing arguments to prove that our position is right, and that it can be maintained before the country. But it is becoming to every gentleman here, inasmuch as he has a constituency whom he represents and who will look to his position here that he should not dodge the question, but meet it fully and frankly, that he should not skulk behind his simple vote, but that he should give a reason for the faith that is within him. Sir, it would be useless for me to attempt again to go over the ground which has been already trod by those who have preceded me. The gentleman from St. Paul, (Mr. GORMAN,) has gleaned every grain of wheat and every spear of grass into his arguments, and has presented a mass of facts and arguments which are unanswerable. But it is proper, in my judgment, that if the facts there presented are true, and if it is the calm, cool judgment of the members of this Convention, that these are facts, they should say so here in their places. It is also due to our constituents, I apprehend, that we should endorse these facts and these arguments, and place ourselves all upon the same ground.

Now, sir, I am in favor of the passage of these resolutions, here in our temporary organization, before proceeding further. The first impressions are always strongest everywhere, but especially with the masses. The proposition is, that the assemblage of persons now sitting in the other end of the Capitol, are sitting there without authority of law, in violation of parliamentary usage, and that the assemblage is revolutionary in its character.

I had not the pleasure of being present at the first meeting of this Convention, in the other wing of the Capitol, but as to subsequent facts and transactions I can speak from personal knowledge. I have, however, to say that I have listened to the version of the facts which transpired at the first meeting, by the various members of this body; I have also listened to accounts given by members sitting in the other wing of the Capitol and they do not substantially differ. I have endeavored to arrive at my conclusions aside from any partisan feeling, and aside from any consideration of any caucus arrangement whatever. The simple question is whether the

meeting of the Convention which met on the day appointed by law, was legally adjourned on that day? I care nothing about any agreement to meet at one time or another, whether at twelve o'clock, one o'clock, or two o'clock. It is conceded by all that there was an assemblage of three-fourths of the legally elected members of the Constitutional Convention on that day. Having so met, the question has been discussed and the ground gone over and over again, as to the propriety of this man or that man taking the chair; whether Mr. NORTH had that right, or whether Secretary CHASE had that right. I believe that there was no peculiar right in the matter, but inasmuch as the Secretary of the Territory was the depository of the election returns, and he being also a member of the Convention I think there was at least a peculiar propriety, a peculiar fitness, in his calling the Convention to order. That is all I claim.

But, sir, there is a point further than this: There was a motion made to adjourn. Now, sir, take the position assumed by some, if not all of our opponents. They claim that the call to order made by Mr. NORTH, representing fifty-six persons claiming to be members of the Convention, was made simultaneously with that made by Mr. CHASE. For the purpose of argument, admit it. There was then a motion to adjouon. Every one of our constituents who has ever been in even a school meeting, knows that a motion to adjourn is always in order. Now, admitting that Mr. NORTH was regularly and properly in the possession of the chair, and to what position are you driven? Here was a motion always in order, which Mr. NORTH, as Chairman, was bound to put first to the Convention. But he did not do it. Why not? The history of the transactions which passed under their armed military occupation of the Hall, and of their pre-determined action to succeed in the temporary organization of the Convention, right or wrong, is an answer to the question. Here was a motion made to adjourn, and the Convention was in possession of the motion. It does not require any very extensive knowledge of parliamentary law to determine that the motion was in order, and every one knows that even by the rules which govern an ordinary school meeting, the motion could not be passed over without being put, and decided. It is not questioned that the motion was made by a member of the Convention, or that it was entertained by the Convention by voting on it, and the position assumed by the gentleman from Ramsey, (Mr. SHERBURNE,) that when the Convention voted upon the motion they also endorsed the fact that the gentleman who put the motion was legally in the chair, and had the right to put it, is unanswerable. The Convention then entertained the motion, and they endorsed the position occupied by

the Chairman—whether originally right or wrong—by voting upon the question put by him ; and it was no one-sided action either, for when the negative was called, there were members voting, and I undertake to say that there are members sitting in the Republican body over there to-day, who will admit they voted in the negative upon the motion to adjourn. It is also an undisputed fact, that this officer declared the vote to be carried in the affirmative. Then comes the tug of war with them. They find that by the simplest rules of parliamentary law which govern a primary meeting, they are in the wrong, and that they have committed what some writer has called worse than a crime, in politics, they have committed a political blunder. What then must they do ? They must offer excuses and apologies; the noise and confusion in the Hall was so great they could not understand the position of things. It has been well said by the gentleman from St. Paul, that we could not be expected to supply them with brains. It was unnecessary that we should supply them with ears. Their constituents intended to send them there, I suppose, with their ears open, albeit those ears might be large or small. (Laughter.) They were bound to use their ears when they came into the Convention. But the noise and confusion was so great that they could not tell what was going on. Some of them have said that they voted in the negative because they understood it to be some move made by the Democratic members, and it was only necessary to know that fact to determine them on which side to vote.

Now, sir, there having been no division called—if, as they say, they had a majority in the Convention, and could have defeated the motion to adjourn by not calling for a division, they have been guilty, so far as the organization is concerned, of worse than a crime. They have been guilty of a blunder.

They say it was a very slight thing to part these two bodies. But I apprehend it was as great a blunder as JACOB FAITHFUL'S mother regarded that of the Nurse who was introduced for her son JACOB. She wished that her son should be brought up with habits of morality and sobriety ; that his morals should be strictly cared for, and she interrogated the Nurse as to who she had lived with, and what had been her associations ; which questions were satisfactorily answered, and then she asked where her husband was. "Why, madam, I have got no husband." "Why, have no husband ! Then he is dead, I suppose ?" "He dead, madam! I never had a husband." At that, the old lady raised her hands, in holy horror, at the idea that her son JACOB might have been committed to the care of a woman who had had illegitimate offspring. The Nurse dis-

solves in tears and replies, "It is true that I had a child, but it was such a little one." [Great laughter.] It is true the Republicans have made a mistake, but it was such a little mistake.

But, sir, to return to the question. I apprehend that it is only necessary to ascertain that the facts I have stated are true, to prove that all the subsequent proceedings of that party are of little importance, for as the gentleman from Ramsey, (Mr. SHERBURNE) has said, the whole question hinges on the regularity of that adjournment. If their proceedings on that first day were irregular, no matter what they have done subsequently—no matter if they go on to form a Constitution, their proceedings are without authority of law, and in the language of that resolution, revolutionary.

Then, sir, I am willing to abide the issue with the people. We want the people to understand that the circumstances which I have stated, and which have been repeated over and over again in this Hall, are facts, and that all our proceeding from first to last, have been in accordance with parliamentary law and usage.

The question has been mooted and somewhat discussed by the gentleman from Ramsey, (Mr. SHERBURNE) whether with or without a majority of the whole number of members elected, this Convention could proceed to perform its duties and its functions as a Constitutional Convention. I profess not to be well posted in regard to the principles of parliamentary law governing this question, but I also confess that upon that position I have my own individual doubts. I have no doubt that this body is the Constitutional Convention of Minnesota, legally and regularly and properly organized. Neither have I any doubt that this is the same Convention which convened in the Hall of the House of Representatives in the Capitol, on the 13th instant, and that we represent, as shown by the report of the Committee on Credentials, a majority of 1600 of the popular vote of the Territory, which majority will sustain our subsequent action. I have no doubt that the body now siting in the other wing of the Capitol, over which does not float the flag of our glorious Union, but over which floats the black flag of Disunion, is revolutionary and illegal in its character, sitting there without authority of law, contrary to the Republican institutions of the country. I believe the people will endorse these sentiments. I believe they will not endorse the assumption by that body of powers and authority with which they have not been invested. I believe in the language of a letter which one of my colleagues has received from a constituent in Stillwater, this morning, that they have dug their own grave by

this proceeding—that the people will rear their monument, and inscribe on that monument the epitaph, "No Resurrection." (Laughter and applause.)

Mr. BAKER. I will not ask of the Convention the privilege of addressing them at this hour, upon the subject of these resolutions, but I will make a single remark before submitting the motion, that the subject be laid over until Monday next. I have been heartily pleased with the remarks which have fallen from the different gentlemen who have spoken on this resolution. I am glad that my friend over the way, (Mr. CURTIS,) has taken the lion skin from the ass and left the ears in full view. I am glad the gentleman from St. Paul, on my left, has given us a sound discussion upon constitutional topics. The gentleman who spoke yesterday, (Mr. GORMAN,) gleaned all the wheat, and now it will be a pleasure to me for eight or ten minutes, to handle the chaff.

I do not concur with the gentleman (Mr. SHERBURNE,) who expressed the opinion, that it made no difference whether we sat here as a majority or minority Convention. I have always said I would not sit here with a minority. But, sir, I have never doubted that we represent a majority of the people. The Committee on Credentials, report that there are now here fifty-five men who are duly elected members of this body, representing a large majority of the popular vote of the Territory. Sir, I would sit here with fifty-five members, for they have not as many legally elected members in the other branch. I have always maintained that a majority of Democrats were elected to the Convention. If I ever had any doubts as to the intelligence of the people of Minnesota, they would have been dispelled on hearing the remarks which have been made to-day by the representatives which those people have sent here. We are here to fight for the faith by which the Democratic party have stood for seventy years, and I am ready to carry the war into Africa. I want Democrats to take the stump in this Territory, and with such evidences of ability as we have seen this morning, I have no fears of the result. I want them to go to Southern Minnesota where the Republicans have boasted they will carry everything before them. I want them to carry these arguments there, and with the doctrines of the Cincinnati Platform and with the usages of the Democratic party from the earliest period down to the present time. I want to see what army can stand before them. We have the arguments, and supposing they have their pistols, let it be so.

I am now perfectly willing to go on with our permanent organization. I hope every gentleman here will be heard upon this reso-

lution. Let it be published, and I believe our constituents will approve it. I want it distinctly understood, that the record we have submitted here, is what every Democrat will stand by, and when we submit the Constitution which we shall frame to the people, they will sustain us. We have heard to-day one gentleman take the lion's skin from off the ass; the wheat yesterday was all secured, and now I blow the chaff to the four winds.

I move that these resolutions be postponed until Monday next.

Mr. BECKER. I would suggest that as to-morrow is a buisy day with us, and as I presume we shall be ready to effect a permanent organization by Monday, that we had better adjourn over. I move that the Convention adjourn until Monday next.

The motion was agreed to, and at half past twelve o'clock the Convention adjourned.

TWELFTH DAY.

MONDAY, July 27, 1857.

The Convention met at 10 o'clock, A. M.

The Journal of Friday was read and approved.

CONDUCT OF THE REPUBLICANS.

The PRESIDENT *pro tempore* stated the business in order to be, the resolutions submitted on a former occasion by the gentleman from Nicollet, (Mr. FLANDRAU.)

Mr. BUTLER. I would not presume, after the eloquent and masterly exposition of the position occupied by this Convention, to enter again into the discussion of the subject. Backed as we are by a majority of the people, and fortified by the highest parliamentary authority, our position is impregnable. But, sir, approving of the recommendation made by my colleague and others, that every gentleman here should express his sense of the justness and fitness of the resolutions pending, I desire to say that I consider them just and right; and I have risen merely to emphasize the vote I shall give upon their adoption.

Mr. STACY. I do not design occupying the time of the Convention long with the remarks I am about to make: but, sir, I cannot let the opportunity pass without giving my cordial sanction, not only by vote but by my voice, to sustain this resolution; and, sir,

I consider it my duty, not only to myself but to my constituents, to make known my exact position on this subject: to say to them, as well as to this Convention, that I most heartily approve the passage of this resolution, and most conscientiously endorse and sustain the position of this body in its course from the beginning up to the present moment,—not, sir, from a fealty to party, but, sir, from a conviction that it is right and should be sustained by all citizens who desire to see peace and order prevail over anarchy, force and fraud.

Sir, I have the honor to represent the Fourth Council District,—a District which, I am sorry to say, through the apathy of Democratic voters, is being represented in the other end of the Capitol by five Republicans: good and able men, it is true, but men who endorse that organization.

Sir, coming from a District having a large majority of the representation against me politically, and having been supported in the District, in some localities, irrespective of party proclivities, I resolved (although I have always acted and been identified with the Democratic party) to stand aloof from party trammels, and act on any question that might arise without regard to party prejudices. With that resolution I went into the Hall on the 13th, and paid particular attention to what took place then—particular attention to what was done, and the order in which it was done; and I most fully concur in the statement of facts as regards that session, by the honorable gentlemen who have preceded me. I see nothing, sir, which is not sustained by my observation on that occasion. I am not going to reiterate what took place there, except to notice the idea advanced by some, that there was so much "noise and confusion" that members could not understand the propositions there made. Sir, I cannot believe that such was the fact.

The Republican members had possession, or were occupying the Hall; many of them had selected their seats and marked them. I noticed this, not only when the Democratic members entered the Hall but some two hours before we went in. At the proper time,—I repeat, sir, at the proper time,—(for it is all fog to say we went in seventeen minutes before twelve), at or near the hour of twelve, when the Republican members were all there, the Democratic members entered the Hall in a body; and no one, knowing the circumstances, but will say it was eminently proper they should so enter. I say we entered the Hall in a body, and mostly found seats. Immediately, Mr. CHASE took the Chair and called the Convention to order. Up to this time I heard no noise that tended to confusion, nor until a motion was plainly and distinctly made to adjourn.

Then, sir, I heard some howling on my left. I don't know, sir, whether it came from members of the Convention, or not; but I must be allowed to state that it sounded like a screech from bleeding Kansas, or something worse. But it immediately ceased on Mr. NORTH taking the stand and calling to order, and proceeding with his motion for Mr. GALBRAITH to take the Chair. I could then distinctly hear Mr. CHASE put the motion for adjournment, and as distinctly hear Mr. NORTH stating his motion preparatory to a vote. The motion to adjourn was loudly sustained by many voices voting Aye, and as loudly rejected by a few voices voting No. The Democratic delegation turned to retire from the Hall, when Mr. NORTH's motion was responded to with a loud Aye, and no one voted No. Now, sir, had I not fully believed the Convention had adjourned, legally and rightfully, I should certainly have voted No to NORTH's motion, and staid in the Hall to be prepared for further action of the Convention. The question of a right to adjourn has been mooted. That proposition is so ridiculous, that I will only state: an assemblage of this kind might frequently find themselves in a very awkward, unpleasant, and even uncomfortable position, without that power at any time when they felt disposed to exercise it. Now, sir, fully believing that the Convention adjourned regularly and in pursuance of a power they possessed, could we, with any self-respect, stultify ourselves by recognizing the organization that took place after the adjournment. It is said this is an august body, all-powerful, and not governed by parliamentary rules. But, sir, ought it not to be governed by decency: by rules of propriety: by rules that would distinguish us from a mob: by rules that would give us as much dignity, at least, as a town-meeting?

If not, sir, then I no longer choose to belong to it. I would prefer returning to the plow-handle, where the dignity of a citizen of this free country can be maintained, and not condescend to be degraded by an association with a Constitutional Convention.

Sir, I understand parliamentary rules are rules adopted by common consent, to give order and dignity to public bodies, and when a man leaves them, and declares them of no force in such bodies, he opens the door to anarchy and confusion that cannot and will not be tolerated by the American people.

Now, sir, believing that adjournment to be regular, we cannot but recognise this body, acting in concert under that adjournment, to be the Constitutional Convention designed by the people of this Territory. I do not deny the *right* of any body of men to adopt a Constitution and submit it to the people; but, sir, I do doubt the

good policy of such a move, unless the power has been delegated to them by a majority of the people.

A great cry has been set up about this Pembina Delegation, just as though the people of the Territory, and the whole people, had not a right to consider the propriety of throwing off our Territorial garb, and assuming our position as a State in the Union, as though they had no right of a voice in framing a Constitution for the same. Why, sir, no act of Congress can take away that right. It is a right guaranteed to them by the Constitution of the United States —it is a right the American people have and will maintain so long as they can raise a voice or lift an arm.

Then, sir, why disfranchise a portion of the people?—why assume to take from them that right?—why encroach on this sacred privilege?—sir, the only answer that can be given is, "It is for party purposes."

Some found their reasons on the Enabling Act. Now, Mr. PRESIDENT, I acknowledge great respect for that Act. I consider it highly proper, so far as it suggests to us the desire of Congress in relation to the boundaries of the proposed State. But, sir, when you go beyond that, and claim for it authority to locate our boundaries; authority to say that so many people of the Territory *only* shall have a voice in framing the Constitution and defining the boundaries, then, sir, you go too far; you give to Congress a right, a power, that never was ceded to it by the people, a right which it in no wise possesses. You detract from the Constitutional rights of the people, and that is a federal doctrine which true Democrats will never sanction, and the people will never sustain.

Sir, a portion of the people of this Territory are in favor of an east and west line dividing the Territory, which if adopted, would exclude many of the people and many of the able Delegates I see around me. Now, those people, may with just as much propriety, say that the people north of such a line shall have no voice in settling the question of boundary in framing the Constitution, as we to say that part of the Pembina District west of the Red River and that part of Brown county west of the line established in the Enabling Act, shall not have a voice here. Sir, I have a great respect for the Legislative Act on this subject, and I like it better for the reason, (as I understand,) it gives all the people of the Territory a voice in this Convention. But, sir, when you come down directly to the question of authority or power of those Acts, they are of as much weight as so much white paper, and no more. They have been of use to us as guides in fixing a sort of basis of representation in this Convention, which the people have adopted by common

consent; but the people of any part of the Territory have never by common consent agreed to disfranchise another portion of the people of the Territory; no, sir, nor never will while the people are Democratic. I admit we have got to have the consent of Congress before we can assume our position as a State; but, sir, the Constitution provides that when we adopt a Constitution, Republican in form, &c., we *shall* be admitted on an equal footing with the other States. Sir, I said the people were Democratic—that expression was well chosen—the people in their sovereign capacity are jealous of their rights, and will protect them; and so surely do party leaders understand this, that the Republican leaders claim they are Democratic, and the true Jeffersonian Democracy. To prove it they will point to men to identify their party, and to measures they advocate, and claim they are Democratic measures. They bewilder and befog some, but I will state a rule by which you will always distinguish the true Democratic party, let the other party disguise their federal doctrines under whatever name they choose. Sir, I learned this rule long, long ago, and it has never failed me, and never will fail any one who follows it. The rule is this: That party which advocates and practices the greatest Constitutional Liberty to the whole people; that party that recognizes the voice of the people, let them be ever so humble, let their manners be ever so rude, is the true Jeffersonian Democratic party.

That party that is jealous of the people, that is constantly advocating measures to resist their constitutional rights, to smother their voices, to disfranchise a portion of them, be they ever so weak, is the federal party. Sir, with that rule in view I have never been in the fog, have always been able to point to the Democratic party, and always been able to detect the wolf in sheep's clothing, let him come to me under the name of Whig, of anti-Mason, of Democratic-Whig, of Republican-Whig, or American, or Republican, or which ever of the thousand names he has assumed to deceive the people. By that rule I can detect him now, when he undertakes to smother the voice of the people, coming up from St. Anthony, from Houston and Mower counties; by that rule I detect him now, when he undertakes to say that a portion of the people of this Territory shall have no voice in the important questions to be acted upon by this Convention.

Sir, something has been said by the gentlemen who have preceded me, in relation to the Republican press of the country, and it has been suggested it is not policy to strip it of its falsehoods and frauds, for by so doing you destroy that party. I agree with the intimation, that it is necessary that different parties exist in this

country, for the perpetuity of free institutions, and agree that the Republican party, (when I say party, I mean the leaders, for the people are honest,) is founded in fraud. Why, sir, formerly we contended with a party with principles; that party openly avowed and advocated its principles from one end of the Union to the other; a party led on by able and honorable men, like a CLAY and a WEBSTER; the leaders went to the people with its principles, advocated, reasoned, and urged the people to sustain their platform of principles. But, sir, the people weighed, considered, acted upon and condemned them. One by one the planks were knocked from under them by the still voice of the ballot-box, and Democratic principles reigned triumphant. They thought to sustain themselves awhile in the last struggles by throwing around their candidates the mantle of military glory, but it availed them naught; and when they threw all their dying energies into the scale to sustain that worthy, General SCOTT, and so signally failed, their lamp of life went out. The immaculate New York *Tribune* said the party was *dead*, and when the bull-dog barked, what lesser dog dared to growl nay. It slumbered awhile in the ruins, then the leaders went to work, and out of the ashes reared a new god, and christened it Republican, the original name of the Democratic party, but which had been superceded by the name it now bears, given it by the federalists in derision of its principles.

Sir, they returned to first names, but did they return to first principles? Let us look at their platform and see. Sir, we find but one prominent plank in the platform; and what is it? Is that a plank on which is written plainly and distinctly, principles that the masses will sustain? No sir, oh no; all we can see on it is, opposition to the Democratic measures and Democratic men, under all circumstances, to be supported by falsehood, fraud and treachery. That, sir, is the only prominent plank, and the balance is composed of sliding planks—on one is written, "Abolition," on another, Know Nothingism, on another Nullification, &c., &c. The abolition plank has different faces; on one, political equality of the white and black races; on another, social and political equality of the races; on another, a political equality founded on property qualifications in the black, &c. It is useless to enumerate all the phases of these planks; it would take too much time. The Know Nothing plank has a number of them. Well sir, these sliding planks are slipped in and out to suit localities. In Massachusetts, now, they have got by the side of the prominent plank, the Know Nothing and Abolition plank, which makes a broader platform than the beast has been accustomed to stand on, and he brays so loud

and long that it frightens some of the leaders, fearing the people will see he is no lion, and they threaten to jerk out the Know Nothing plank and keel him up a little, to stop his noise. In Iowa they dare not stick in the Know Nothing plank, but push him hard on the Abolition plank, displaying different faces for different localities,—and so it goes all over the States, with a shrieking chorus for bleeding Kansas—only agreeing on the prominent plank.

Sir, from the leaders of that party, apparently, has gone forth the admission that their chorus is of no more avail. The people have been so many times deceived by it, they heed it not, and the order is given to bring in the North Star a Republican State—bring her in by honest means if consistent; but, at any rate, bring her in a Republican State. Sir, it reminds me of a charge left by a dying man to his son. "John, get money—get it honestly if you can, but get money." Pursuant to that order, we see, before the election, imported leaders of ability from the States, stumping the Territory, advising and urging organization and action, some of them remaining; and when they see the people have not sustained them, we see the next step in the programme an attempt, through willing tools, to stifle the voice of the people, by giving false certificates, and when that is done, we hear a cry from their press throughout the length and breadth of the land—the Republicans have a decided majority in the Convention—and so adroitly was it managed that the Democratic men believed, and some Democratic papers conceded it. But, sir, the test was yet to come—they knew when the returns came in, and men came from the different parts of the Territory, they must be detected; how then were they to cover their tracks? Let the members trample upon the rights of the people? Take the position to excite physical collision, and then raise the cry of Border Ruffianism in Minnesota, and with that chorus we will enchain the attention of the people, and make it a "good enough Morgan until after the election." But, sir, thanks to the discretion of the Democratic members of this Convention, their thunder has been taken from them—a course has been adopted, as has been wisely remarked, to strip the lion's skin from the beast, and we will exhibit it to the people in all its original deformity, and by their decision, we will, in the language of another, "sink or swim, live or die."

The PRESIDENT *pro tempore* stated that, under the rules the Convention had adopted for its government, it was not in the power of the presiding officer to submit any remarks, except by unanimous consent. He proposed in a very few words, to give his views upon the existing state of things; and, with the permission of the

Convention, would call Mr. SETZER to the chair. (Cries of "leave, leave.")

Mr. SETZER accordingly took the chair.

Mr. SIBLEY. It is not my intention to occupy much of the time of the Convention. It has been suggested to me, by friends around me, that my long residence in the Territory, and my somewhat prominent connection with its public affairs, during the first years of its existence, would render it quite proper that I should state something in regard to my own position, as connected with the state of things existing around us.

I commence by saying that, so far as the statement of facts relative to the adjournment on the first meeting of the Convention, and the subsequent proceedings of this body, which have been made by gentlemen who have preceded me, are concerned, and so far as my knowledge extends relative to them, I endorse them fully.

Sir, it strikes me that never has a deliberative body evinced so great a want of civility—I might say of common decency—towards a portion, and a large portion of its members, as the body occupying the opposite end of the Capitol, taking their own account of their proceedings.

Where, sir, was it ever before seen that a portion of a body claiming to be the majority of that body, has taken possession of the Hall appropriated to its use, hours before the time of convening, and if not by actual force, by their equally indefensible conduct, excluding the other members of that body from all participation in their proceedings? I venture to assert that such a thing was never before witnessed in this country, and I hope to God it will never occur again. It is but one of the phases of the revolutionary action which is going on throughout the length and breadth of this entire land, produced by the extravagance and ultraism of this new-fangled, so-called Republican party.

Sir, I may say, for one, that so far as the Democratic members of this Convention are concerned, there never was any concert of action among them before the day fixed for their meeting. There was never a consultation held among them relative to the organization of this Convention, until the morning of the day on which this body assembled, except of a few persons on Sunday, called at the request of a Republican Committee, to consult in reference to the time of meeting.

For nearly three weeks prior to the meeting of the Convention, I did not visit Saint Paul, and I can safely say that during that time I never exchanged five words with a member of the Convention. There was no concert of action upon the part of Demo-

cratic members of the Convention at any time, in which the taking possession of the Hall, or the organization of the Convention, prior to Monday morning, of the thirteenth, was contemplated. But, sir, everything was left to take its ordinary course, as had been the usage from time immemorial.

Well, sir, what did I find here on my arrival in this city on that Monday morning? I found a body of men in possession of the Hall of the House of Representatives, who are said to have occupied it —and they do not deny it—since midnight, as if they were fearful of some danger, of some violence, if they did not remain at their posts and retain possession *vi et armis* of the Hall. This, sir, is in perfect keeping with the revolutionary state of things which has manifested itself in the Republican ranks for the last two years.

The Democratic members of the Convention resort to violent proceedings for the purpose of controlling the organization of that body!! I have too much respect for the members before me to believe for a moment, that any gentleman would think of pursuing any such course towards other members of the same body. No, sir; from the beginning, their whole course has been in accordance with precedent and order. When they went into that Convention, knowing that several Democratic Delegates were absent, they desired to adjourn, but if they had been voted down, unjust as I should have considered the conduct of the opposition, I, for one, should have submitted.

Mr. PRESIDENT, what were the facts? Is there any pretence that the body did not adjourn? Is there any pretence that a division was called? Is there any assertion that there was a negative vote sufficient to have defeated an adjournment? No, sir. The only defense or apology set up by the opposition, is one which is so absurd in itself as hardly to deserve mentioning, if it were not gravely insisted on, that the body had no right to adjourn before it had fully organized. I believe that this pretence is set up only because they could find no other more plausible mode of relieving themselves from the predicament into which they had forced themselves.

But, sir, I do not think it necessary to go on with these details which have been alluded to by gentlemen who have preceded me. I notice a paragraph in a paper of this morning, containing an account of the proceedings of the so-called Republican Convention, which shadows forth clearly, the programme which they intend to adopt for themselves in the coming campaign.

The gentleman who presides over that body, (Mr. BALCOMBE,) for whom—although I have very little personal acquaintance with

him—I have hitherto entertained much respect, has distinctly announced, in a resolution which he brought before that body, on Saturday last, that the Democratic party, so far as they are identified with this body, are opposed to the admission of Minnesota into the Union as a State, and that the object of our course has been to protract, indefinitely, the term in which we shall be admitted as a State into the Confederacy. Now, sir, I say here, that I do not see how any man having decent regard for truth, with the facts before his eyes, could make that assertion. I stand here today, to asseverate that there is not a man in this Convention—and there is not a man, to my knowledge, in the Democratic party, here or elsewhere—who is not in favor of the immediate admission of Minnesota into the Union, as a State. And I will refer gentlemen to the fact, that the Enabling Act was brought forward by a Democratic Delegate in Congress, supported by Democratic members, and that to the leaders of the Democratic party in Congress, are we mainly indebted for the initiatory steps for our admission into the Union. This is a fact which the public record shows. It is a fact which will not be denied, and cannot be denied. And when the presiding officer in the other end of the Capitol puts forth to the world such a statement of facts, I say that he is either rendered oblivious by his attachment to his party, or that he has far less regard for the sacred character of truth than I had hitherto given him credit for.

But, sir, this move in that body has foreshadowed the course of policy they intend to pursue. They are to go forth to the world with the false statement that the Democratic party of Minnesota, as represented in this Convention, are opposed to the immediate admission of Minnesota into the Union, as a State. Sir, I am willing that we shall be judged by our acts, when our labors in this Convention shall have been completed; but I am not willing that the assertion of men in the other end of the Capitol, as to the motives by which we are governed, shall go uncontradicted before the country.

A word has been said by the gentleman who preceded me, in reference to this Pembina case. Now, sir, I cannot conceive how, with any regard for justice or precedent, that body of Republicans could ever have taken the position that the Pembina Delegation were to be excluded from the Convention. Why, sir, there is no power in the Congress of the United States; there is no power existing which could rightfully exclude Pembina from representation in this Convention. By the very terms of the Enabling Act they are as much entitled to seats as any Delegate upon this floor,

for it is notorious that not a single man voted for delegates here, west of the limits of the proposed State. Sir, shall a whole Council District be disfranchised, and these men deprived of their seats here, and the citizens of the Territory of their rights, simply because the Republican members of the Convention, for their own party ends, in caucus, have said that such shall be case? If they can find no stronger reason for excluding these men than has been presented, their case is weak indeed. But, sir, it is not necessary for me to go over the ground which has already been so eloquently occupied by those who have preceded me. I will simply say that there are now about five men occupying seats in the other end of the Capitol, who have no more right to seats in this Convention than five men standing in that lobby, and there is another from Houston county occupying the same position. If men are to occupy seats in a body like this simply because their right is not contested by other men, any man in the street may come in there and take a seat, and if nobody contests it with him, he may be considered a member of the Convention.

Mr. PRESIDENT, I have already occupied more time than I intended. This debate, it seems to me, has spun out to quite as great a length as was necessary. I concur entirely in the views expressed by gentlemen who have preceded me, in reference to the state of things which exists in this Capitol. As one of the Democratic members of this Convention, I came here prepared to bow to the will of the majority, to whichever party that legal majority might belong. But, sir, it is easy to perceive the *animus* which has been shown by that body in the other end of the Capitol, in all their proceedings; and, sir, in view of all their conduct, in admitting and excluding members without the shadow of right or of law, and of their denial of the common civilities of life, to members elected to the same body with themselves, I can almost say I do not absolutely regret this state of things.

The Democracy need to be shown the weapons with which this so-called Republican party will engage in the conflict they are about to wage against us. They require to be advised of the revolutionary character which has characterized the seceders from this Convention in their proceedings thus far. They require some stimulant in order to incite them to rise in defence of the principles of their party, which are the very basis of our institutions. To these principles all the instincts of this so-called Republican party are antagonistical, and it becomes us to meet them at every point, and to put down at the polls the fanatical spirit which will otherwise work the ruin of the Union.

I know there is not a man in this Convention who does not feel that he stands on right ground, and that the people will sustain him. For one, I am well satisfied of the fact. I am well satisfied that when the whole matter is placed before the people in its proper light, the Republicans will be found largely in the minority. I am convinced that the Republican party is a strictly sectional party, the very kind of party, the existence of which the Father of his country so much deprecated. Gentlemen of that party may say what they please of thier attachment to the Constitution of the United States, and to our Republican form of Government, but facts speak louder than words. Their whole conduct has tended to incite the people of the Northern States to make war upon the fifteen Southern States, to create jealously and heart-burnings between them. I, for one, have no sympathy with such sentiments, and I hope I never shall have.

Now, sir, I have but a word more, and that in regard to the gentleman who, I understand, comes here this morning from Mower county, and claims a seat in this body. I understand he brings with him evidence that he received a majority of the votes in the county from which he comes. In that view of the matter, if such are the facts, and the Committee on Credentials decide that he is entitled to a seat here, I hope that he will at once be admitted.

The preamble and resolutions were then unanimously adopted.

FORM OF OATH.

Mr. STACY. I believe it is customary in Conventions like this, to take an oath before proceeding to a permanent organization. I do not know that there is any law requiring it, but I believe it is a custom which we had better follow, and I therefore submit the following as the form of oath to be administered to the members of the Convention:

I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States, and will faithfully and impartially discharge the duties incumbent upon me as a Delegate to the Constitutional Convention of Minnesota, according to the best of my ability. So help me God.

The motion was agreed to.

CASE OF MR. ARMSTRONG.

Mr. BROWN. Before any motion is made to swear in members of the Convention, I will state that Mr. ARMSTRONG, of Mower county, is now present, and brings with him evidence of his right to a seat in the Convention. As he has not a certificate from the proper officer in the county from which he comes, and the evidence

which he brings cannot properly come before the body, except through the Committee on Credentials, I move that such evidence be referred to the Committee on Credentials, and that in the meantime Mr. ARMSTRONG be allowed to take his seat with us and be sworn in.

Mr. GORMAN. I trust the gentleman will not insist upon that motion. We are clearly right in every thing we have done thus far, and I hope we shall not take any incautious step in anything we do. I think Mr. ARMSTRONG should not be sworn in as a member of the Convention until his case has been investigated by the Committee on Credentials. I want to keep ourselves in the position where no advantage can be taken. The country feel that we are right now. I hope the course which will be pursued will be for the matter to be referred to the Committee on Credentials, and that that Committee will report the whole facts of the case at the earliest practicable moment, so that the facts may go out to the people and show the grounds on which Mr. ARMSTRONG is admitted when he is admitted. We have before us at this time only oral evidence. We should have before us all the evidence that has been taken, so that we have the convictions of our own judgment to attest that we are acting properly and able to present to the people the evidence on which those convictions are founded.

Mr. BROWN. I will then modify my motion so as to provide that the evidence in the case of Mr. ARMSTRONG be referred to the Committee on Credentials, with instructions to report at the earliest practicable moment.

The motion was adopted.

OATH ADMINISTERED TO DELEGATES.

Mr. SETZER. I now move that the delegates present be sworn in.

Mr. FLANDRAU. I move that the oath be administered to all at once, and that it be done by raising the hands.

The motion was agreed to.

On motion of Mr. BECKER, Judge NELSON of the United States District Court, was invited to swear in the members.

A MEMBER moved that the list of names be called over before the members were sworn in.

Mr. SHERBURNE. I think the suggestion is an unimportant one. Gentlemen here know my opinion of the matter. I think it is not of the slightest consequence whatever whether the oath is administered or not. It is a mere farce. No man here is under any more legal obligation in consequence of being sworn in. I

would therefore suggest that those who are present, have the oath administered to them without the necessity for calling the roll.

Mr. MEEKER. I am very happy to agree with the gentleman from St. Paul in nearly all the conclusions to which he comes, for I think they are right, but I cannot agree with him that the administering of the oath to the members of this Convention is a mere farce. In all the instances with which I have made myself familiar of similar Conventions, the members have been sworn. The object is to impress upon the members the solemnity and importance of the work they are about entering on. The oath is in virtue of a law which the Convention makes for itself. I think, sir, that it is a matter of some importance. I think we should enter on the great work before us under the highest sanction of the human heart. I hope, therefore, that we shall feel it a serious imposition upon us to enter upon the labors before us under the sanctity of an oath.

Mr. SHERBURNE. I will state in connection with what I have already said, that I understand very well what are the opinions of most of the members present upon this subject, and I will not detain them with any extended remarks. I will say, however, that I do not regard an oath as of the slightest consequence whatever, unless administered in accordance with the requirements of law.

And I say further, that, as far as I have been able to examine, I know of no precedent for administering such an oath in any body of this nature. It was not done in New York; it was not done in Wisconsin; it was not done in Pennsylvania, and I do not know of a single instance in which it has been done. I have no objection, however, to the members of the Convention taking upon themselves any oath they may think necessary. Indeed, I suppose that question has already been decided.

The oath was then administered to the members present by JUDGE NELSON, according to the form adopted by the Convention.

The roll was then called and the following members answered to their names:

Messrs. A. E. Ames, M. E. Ames, Baker, Bailly, Barrett, Baasen, Becker, J. R. Brown, Burns, Burwell, Butler, Chase, Cantell, Curtis, Day, Wm. A. Davis, Emmett, Faber, Flandrau, Gilbert, Gorman, Gilman, Holcombe, Jerome, Keegan, Kennedy, Kingsbury, Lashelle, Leonard, Mecker, M'Grorty M'Fetridge, M'Mahon, Murray, Nash, Norris, Prince, Rolette, Sanderson, Sherburne, Setzer, Stacy, Streeter, Sturgis, Swan, Shepley, Sibley, Taylor, Tenvoord, Tuttle, Vaseure, Wait, Warner, and Wilson.

PRINTING OF THE ENABLING ACT.

On motion of Mr. BECKER, the following resolution was considered and adopted:

RESOLVED, That there be printed, for the use of the members of this Convention, one hundred copies each, of the Enabling Act and of the Act passed by the last Legislature relative to the Constitutional Convention.

On motion of Mr. STACY, the Convention adjourned until two o'clock, P. M.

AFTERNOON SESSION.

The Convention reassembled at two o'clock, P. M.

The Journal of the morning session was read and approved.

Mr. BECKER stated that some doubt had been expressed as to the number of copies of the Enabling Act, and of the act of the Legislature, provided for in the resolution adopted on his motion this morning. He intended to provide for one hundred copies only, and he thought the resolution would not admit of any other construction.

Mr. SETZER. I move that the Chair administer the oath of office to the members present who were not sworn this morning.

The PRESIDENT *pro tempore*. The Chair will state that he is somewhat in doubt whether he has power to administer the oath.

Mr. MEEKER. Clearly not. I conceive that the Chair has no power to administer the oath not even by the order of the Convention. I would suggest that the Sergeant-at-Arms be dispatched for Judge NELSON.

Mr. SETZER. I will state that Judge NELSON is absent from the city.

Mr. BECKER. I would suggest that there may be some members of ths Convention who may be authorized by law to administer oaths. I am informed that the gentleman from Stearns county (Mr. WAIT,) is a Notary Public, and as such, is authorized to administer oaths in the Territory. I would suggest, therefore, that he be requested to administer the oath to the members who have not already taken it.

There being no objection, Mr. WAIT proceeded to administer the oath to the delegates who were not present in the morning.

ELECTION OF PERMANENT OFFICERS.

On motion of Mr. SETZER, the Convention then proceeded to the election of permanent officers.

Mr. SETZER presented the following resolution which was carried and unanimously adopted:

RESOLVED, That Henry H. Sibley be elected President of this Convention; and also, that J. J. Noah be elected Secretary; David Kinghorn Assistant Secretary; Francis H. Smith, Official Reporter; Joseph Tesarow Sergeant-at-Arms; Wm.

Sabury, Assistant Sergeant-at-Arms; John Bell and Peter Zooler, Messengers, and Rev. Mr. Riheldaffer, Chaplain of this Convention.

The PRESIDENT then addressed the Convention as follows:

GENTLEMEN OF THE CONVENTION: I have a second time to return you my sincere thanks for the honor you have done me in choosing me to preside permanently over this body. I hope we are all sufficiently imbued with a sense of the responsibility of the position we occupy, in being sent here by a majority of the people of the Territory, to frame a Constitution preparatory to our admission into the Union as a sovereign State. I hope, gentlemen, that our proceedings will be characterized by that dignity and decorum which has hitherto manifested itself in our deliberations. We have a solemn duty imposed upon us, and I trust we shall discharge it with a due regard for the position in which we find ourselves, and that we shall present for the future State of Minnesota, a fundamental law which will be sustained by a majority of the people. Let us prosecute our duties with diligence and zeal, and at the earliest possible moment, return to our constituents with the fruit of our labors for their acceptance. [Applause.]

COMMITTEE ON RULES.

On motion of Mr. A. E. AMES, it was ordered that a Committee of three be appointed to draft a code of rules for the government of this Convention.

The PRESIDENT appointed Messrs. A. E. AMES, HOLCOMBE and BECKER, as such Committee.

COMMITTEE TO CONTRACT WITH REPORTER.

Mr. GORMAN. I presume it would be necessary for a Committee to be appointed to consummate what has already been done by the Executive of the Territory, in making a contract with the Official Reporter. I move that a committee of three be appointed for that purpose.

The motion was agreed to and the PRESIDENT appointed Messrs. GORMAN, FLANDRAU, and GILMAN, as such Committee.

WISH OF THE PEOPLE TO BE ADMITTED INTO THE UNION.

Mr. SHERBURNE. I hold in my hand the following preamble and resolution which I have hastily drawn up since the adjournment of the Convention this morning, and which, with the permission of the President, I will read:

WHEREAS, By an act of Congress of the United States, passed on the third day of March, 1857, the inhabitants of the Territory of Minnesota, embraced within the limits mentioned in the first section of said act, were authorized to form for themselves a Constitution and State Government, by the name of the State of Minnesota, and to come into the Union on an equal footing with the original States, according to the Federal Constitution; and

WHEREAS, In pursuance of said act of Congress, and in accordance with its

provisions this Convention was duly elected by a Majority of the legal voters in said proposed limits of said Territory, mentioned in said act, and is now ready to proceed to the formation of a Constitution, to be proposed to the people; therefore,

RESOLVED, That it is the wish of the people embraced within the limits mentioned in the first section of said act, to be admitted into the Union as a State at this time; and that the conditions named in said act, between the people of said State and the United States, be fully accepted and ratified.

Mr. PRESIDENT—I have no remarks to make on this resolution. I have drawn it up hastily, to conform to the conditions mentioned in the 3d section of the Enabling Act, which is as follows:

SEC. 3. *And be it further enacted*, That on the first Monday in June next, the legal voters in each Representative District, then existing within the limits of the proposed State, are hereby authorized to elect two Delegates for each Representative to which each District may be entitled according to the apportionment for Representatives to the Territorial Legislature, which election shall be held and conducted, and the returns made, in all respects in conformity with the laws of said Territory regulating the election of Representatives; and the Delegates so elected shall assemble at the Capitol of said Territory on the second Monday in July next, and first determine, by a vote, whether it is the wish of the people of the proposed State to be admitted into the Union at that time; and if so, shall proceed to form a Constitution, and take all necessary steps for the establishment of a State Government, in conformity with the Federal Constitution, subject to the approval and ratification of the people of the proposed State.

It is in conformity with that provision of the Enabling Act, that I offer this resolution.

Mr. FLANDRAU. I would suggest that the resolution offered by the gentleman from Ramsey covers so much ground, that its adoption may preclude us from any future action on the various subjects mentioned in that Enabling Act, on which there may be difference of opinion.

Now all the Enabling Act requires us to decide at present, is whether the people of the proposed State wish to be admitted into the Union. I propose, therefore, to amend, by striking out all after the word "Resolved," and inserting "That it is the wish of the people of the proposed State to be admitted into the Union at this time."

This will leave the various propositions contained in the Enabling Act, on which there may be a difference of opinion, open for future decision. For one, if the resolution is passed in the form in which it has been offered, I shall be compelled to vote against it. I think that these propositions contained in the Enabling Act are of sufficient importance to make it desirable that the Convention should take a separate vote upon each, as it comes up.

Mr. SHERBURNE. I was aware that there would bo a differ-

ence of opinion upon this resolution as I have drawn it. I drew it up hastily, and drew it to cover the whole ground contained in the Enabling Act, for the purpose of bringing the matter fairly before the Convention. It is to me immaterial whether the Convention adopt the resolution as I have offered it, or in the form proposed by the gentleman from Nicollet, (Mr. FLANDRAU). I have so framed the resolution that the latter part may be stricken off, if the Convention so determine. I hold that it is unnecessary to adopt the latter part of the resolution, if the Convention should prefer to take the first portion without. It is sufficient for the Convention to express the willingness of the people to come into the Union, and I am perfectly willing that the latter portion of the resolution should be left off, if gentlemen should think it best.

Mr. BROWN. It seems to me, Mr. PRESIDENT, that the gentleman will see the impropriety of adopting the latter part of his resolution when he comes to think of it. The propositions submitted in the Enabling Act on the part of Congress, to be ratified by the proposed State, are propositions in my judgment which should be embodied in the instrument we are to form, and submitted to the people for their ratification, before they can be made binding. I have drawn up a series of resolutions which I intend to offer, which I will read, and the gentleman can see whether or not they meet his views. The first merely expresses the wish of the people of the proposed State to be admitted into the Union, and the others embrace powers which I think the Convention should act upon promptly. The resolutions which I have drawn up are these:

RESOLVED, That the people of the Territory of Minnesota desire to enter the Union as a State; and this Convention will proceed to form a Constitution for said State.

RESOLVED, That the Secretary of the Interior be requested to instruct the United States Marshal to cause a census to be taken of the population included within the limits of the State, without delay.

RESOLVED, That the Secretary of the Interior be requested to instruct the Marshal to furnish to the Secretary of the Territory a statement of the population of each County, immediately after the same shall have been returned to the Marshal.

RESOLVED, That a copy of the foregoing resolutions be properly attested by the President and Secretary of this Convention, and forwarded to the Secretary of the Interior immediately.

I have merely read these resolutions to see if they will meet with the views of the gentleman who has offered the original resolutions, and, if so, perhaps he will accept them. It is proper that provision should be made for taking the census of the Territory.

Mr. SHERBURNE. I do not accept the resolutions offered by the gentleman from Sibley. I submitted these resolutions to test

the sense of the Convention, and I prefer that a vote should be taken upon them. I desire, however, to make myself understood by the Convention in this matter, for the gentleman does not seem to understand precisely the position I occupy. I have looked to this Enabling Act with some care, and have queried in my mind what was the duty of the Convention in reference to the various propositions submitted in it. I may be wrong: I confess there is room for question as to whether the gentleman from Sibley is right in his construction of that Act, or whether I am; but it strikes me that that Enabling Act is submitted to us as a whole, and that we are at liberty to accept it as a whole, or not to accept it. The question is, what do we believe is the wish of our constituents in this matter? I have endeavored to embrace in a very brief manner the various propositions contained in the Enabling Act. That Act presents certain conditions upon which it proposes to admit the Territory into the Union, and provides that the Convention shall first vote whether it is the wish of the people of the proposed State to come into the Union upon these terms and conditions.

Such is the construction I place upon the whole Act. Now, sir, I have no doubt that we may adopt the proposition of the gentleman from Sibley (Mr. BROWN), and go on and examine the subsequent propositions afterwards, but it seems to me very proper, to save time, that we should at once adopt the whole Enabling Act, and then go on with the formation of a Constitution without disturbance.

It is true that we are not bound by the terms of the Enabling Act. We may reject it, or we may reject any part of it. We have a power behind Congress—Squatter Sovereignty, if you choose to call it so—to form a Constitution independent of Congress, and if Congress accept it, that will be the Constitution. But if we propose to act under the Enabling Act—and that is the question for us to decide—there is a manifest propriety in accepting it as a whole at once. I repeat that I have no feeling in reference to it. I have submitted the proposition to the Convention.

Mr. BAKER. This Enabling Act was introduced into, and passed through Congress by the agency of the Delegate in Congress who has represented this Territory for four years. I take it for granted that he knew what he was about when this bill was drawn up. I think the Legislature of the Territory knew what they were about when they passed an act to carry out that Act of Congress. And now I say to the Convention that they can accept the Enabling Act, or they can reject it. They must either do one thing or the other. If you reject it, you throw the blame of passing an im-

proper act upon a friend of mine, the Delegate in Congress, who has, for many years been identified with the Northwest, and who, faithful to the interests of his constituents, framed this act in Congress, without waiting for the Territorial Legislature to move in the matter. If he was right, then endorse him. I should be sorry to see him stricken down by this Convention; but we must adopt or reject it entire.

Mr. MEEKER. It strikes me there is nothing in this Enabling Act, which is so mysterious as to elicit a very long discussion upon it. It seems perfectly plain to me that we may accept the act so far as our admission into the Union is concerned, and then adopt or reject the other propositions made in that act, which are proposed separately, for our free acceptance. We may accept the proposition for admission, and then take up the other propositions and adopt one and reject another, and still, if the people ratify our action, we are *ipso facto* a State, without further legislation. I think therefore, that we may adopt the resolutions of the gentleman from Sibley, (Mr. BROWN,) as a separate proposition, and then discuss the other propositions separately afterwards. I am, therefore, in favor of the resolutions offered by the gentleman from Sibley.

Mr. FLANDRAU. I believe the question now is on my amendment to the resolution offered by the gentleman from Ramsey, (Mr. SHERBURNE.) Now sir, it seems to me that the propriety of dividing the proposition presented by that gentleman—for my amendment is simply one to divide his proposition—must be manifest to every one. This Convention would, without doubt, vote unanimously in favor of the simple proposition, that the people wish the admission of Minnesota as a State into the Union at this time. That is the question which must be first decided, because if we determine that it is not the wish of the people within the proposed limits, to be admitted into the Union at this time, that dissolves this body. There is nothing else for us to do. I say the propriety of voting upon this simple proposition by itself is manifest, for while no one of us would vote in the negative upon that, standing by itself, yet, if taken in connection with other propositions which are objectionable to us, we may be compelled to vote in the negative upon the whole proposition.

Now sir, I do not pretend to say the resolution, as originally submitted, would prevent our action upon the various subjects embraced in the Enabling Act, subsequently; but I do say that these various subjects are of sufficient importance to be acted upon separately by this Convention, and that each gentleman here should have the privilege of recording his vote separately upon them.

The action of the Convention need not be a unit upon all the provisions of that Act. We have the right to form a Constitution with boundaries differing from those named in the Enabling Act; we have the right to reject the five per cent. of the proceeds of the sales of the public lands; we have the right to accept or reject any of the propositions made to us, and I think we should act upon them separately.

Then another thing: I entirely agree with the gentleman from Sibley, (Mr. BROWN,) that these propositions contained in the Enabling Act, are propositions addressed to the people and not to us for final decision or ratification. They must be ratified by the people before they will possess any validity, or impose any binding obligation upon the part of the United States or Minnesota. I do not think we have the power to speak for the people in this matter. They have sent us here to say whether they shall come in as a State, and then to submit our work to them for ratification. These propositions are for them to accept or reject.

Mr. BECKER. There is not a member of this Convention who has this Enabling Act, or a copy of these Resolutions before him. To enable us to have them before us in print, and to act understandingly upon them, I move that the House adjourn.

Mr. SETZER. I rise to a question of order. I submit that we are required to decide upon the wishes of the people to be admitted into the Union, as the first act of the Convention, and I hold, therefore, that the motion to adjourn is not in order.

The PRESIDENT. The Chair overrules the question of order.

Mr. BECKER. At the request of friends around me, I will withdraw the motion to adjourn.

Mr. BROWN. I think it is certainly improper to adopt the course which the original mover of these resolutions proposes. Now, sir, I am in favor of the boundary line proposed by Congress in the Enabling Act. I am in favor of exempting the property of the General Government from taxation, and of not interfering with the right of the General Government to dispose primarily of the soil, in lieu of the rights which are offered to us in return. So far as I am able to say, I am in favor of accepting the Enabling Act just as it comes to us; but I am opposed to incorporating all those propositions in one resolution, because there are gentlemen here who desire not to assent to some of the propositions made in that Act.

Mr. M. E. AMES. I desire not to occupy the attention of the Convention for a single moment. Some feeling seems to have arisen about this proposition, which is in itself a very simple one. I would suggest that the subject be referred to a committee of three

who may, perhaps, be able to put it in such shape as to satisfy gentlemen on both sides.

Mr. EMMETT. I hope the amendment to this resolution will prevail. It seems to me that the resolution as presented by Judge SHERBURNE, is eminently proper as so amended. By looking at the Enabling Act, I find the first Section provides that the people within certain named limits may elect delegates to a Convention to form a Constitution. It there provides that that Convention when assembled, shall decide first, whether it is the wish of the people within the proposed limits to be admitted into the Union as a State. The provision is in these words:

And the Delegates so elected shall assemble at the Capitol of said Territory, on the second Monday in July next, and first determine by a vote, whether it is the wish of the people of the proposed State to be admitted into the Union at that time.

Now, it seems to me that the only question we are to determine is, whether it is the wish of the people within the lines as prescribed by Congress in the Enabling Act, to be admitted into the Union at this time. I do not think there can be any doubt as to the wish of the people on that subject. But I do not think the adoption of the resolution in this form, precludes the Convention from considering subsequently whether the people within the whole Territory as now constituted, desire to come in as a State. The people within the proposed limits are included in the whole Territory, and the two propositions would not be inconsistent. I think this question may fairly come up afterwards. The only question we are now determining is, whether the people who are represented here under the Enabling Act, are willing to be admitted into the Union. If the Convention see fit to change the boundaries afterwards, I think they have a perfect right to do so. I am in favor of the original resolution as proposed to be amended by the gentleman from Nicollet, (Mr. FLANDRAU.) I think also that the two additional resolutions proposed by the gentleman from Sibley, (Mr. BROWN,) are proper, and that it would be well to add them to this resolution. That would cover the whole ground, and at the same time leave the boundary question and the five propositions submitted by Congress, open for further action.

I do not hold that we must accept all these propositions or none. I think we may accept the first and reject the second, or accept the third and reject the fourth, and make any division of the Territory we may think proper; provided, always, that we put it in such form that the provision in the fifth Section of the Enabling Act will not exclude us.

Mr. ROLETTE moved that the Convention adjourn.

The motion was not agreed to.

Mr. GORMAN. I think the true course for us to pursue is, to have as little division as possible upon this question as to the wish of the people to come into the Union as a State. I would like to see the vote entirely unanimous, and so would my colleague, (Mr. SHERBURNE) I know, upon this question. I agree with my colleague entirely as to the propriety of accepting all the provisions embraced in the Enabling Act, but I would suggest to him whether, in deference to the views of gentlemen here who are not in favor of all the propositions of that Act, it would not be better to have the question taken upon the single proposition whether it is the wish of the people to be admitted into the Union as a State, by itself? One gentleman already has announced that he shall vote against the whole proposition if it is submitted as a whole. I think the suggestion of the gentleman from Ramsey (Mr. M. E. AMES), to refer the subject to a committee of three, was a good one. I should like to see Judge SHERBURNE chairman of that committee, and see whether some form could not be agreed on which would suit the views of all parties. I think there is no division of opinion here as to the wish of the people to become a State. You, Mr. PRESIDENT, this morning alluded to a resolution which has been introduced into the Republican camp declaring that the members sitting in this Hall are opposed to the admission of Minnesota into the Union at this time. Now, sir, I think we can in no way give a more emphatic contradiction to the statement than by passing this resolution unanimously. I therefore hope the subject will be referred to a committee which shall be able to report some form upon which we can all agree.

Mr. MEEKER. I wish to make a single suggestion in reference to this matter. It seems to me that if the language of the Enabling Act is not followed in this resolution the Secretary of the Interior will not know what rules to adopt in reference to the taking of the census. If the proposed State is to embrace the entire extent of the Territory, then the census must be taken in the entire Territory, in order to see how many members of Congress we are entitled to. I think the Convention should follow strictly the language of the Enabling Act, and confine itself only to the boundaries laid down in that Act.

There is great propriety in the suggestions of the gentleman last up, (Mr. GORMAN.) It is desirable that we should act in this matter with unanimity. The Republican presses of the Territory are charging that we are not in favor of immediate admission into the Federal Union. Shall we give color to that report by a long

debate here over a simple proposition to answer Aye or No to the proposition whether it is our wish to become a State? I hope the resolution will be adopted at once, without further discussion.

Mr. HOLCOMBE. If I understand the question before us it is, whether we shall act upon the propositions contained in the Enabling Act separately, or as a whole. Now, sir, the propositions in that Enabling Act are quite numerous, and I think it is hardly best to embrace them all in one resolution. The first question which we have to decide, according to the Enabling Act, is, whether we desire to be admitted into the Union now. I think the vote had better be taken upon these propositions separately. I am in favor of them all; but let us vote upon this one which we are required first to vote on, and then we can take the others up separately and adopt them. It seems to me that this is the best course to pursue.

Mr. MURRAY. I move that these resolutions be referred to a committee of three.

Mr. SHERBURNE. I ask the indulgence of the Convention, to make a single remark by way of explanation. This resolution was drafted to meet my own private views, but, sir, I am not in the least tenacious in respect to the matter. I am perfectly willing that the amendment of the gentleman from Nicollet shall be adopted if the Convention prefer it. It struck me at the time I drew up the resolution, that the Enabling Act was intended as a whole, and I still think so; but it is perfectly immaterial to me whether we vote upon it as a whole or upon the propositions separately. I am unwilling that the time of the Convention should be taken up with a discussion upon a point so immaterial. I hope the amendment will be adopted.

Mr. BROWN. The question, I believe, is first upon committing this subject to a committee. I hope that will not be done. The proposition before us is a simple one. It is one which every member can understand now as well as he could if ten thousand committees had reported on it.

The motion to commit was not agreed to.

Mr. SHERBURNE. If it is in order, to save time I will accept the amendment of the gentleman from Nicollet.

Mr. BROWN. I now offer as an amendment the three last resolutions which I read to the Convention, when this question first came up.

The amendment was adopted.

The resolutions as amended were then adopted as follows:

WHEREAS, By an act of Congress of the United States, passed on the third day of March, 1857, the inhabitants of the Territory of Minnesota, embraced within

the limits mentioned in the first section of said act, were authorized to form for themselves a Constitution and State Government, by the name of the State of Minnesota, and to come into the Union on an equal footing with the original States according to the Federal Constitution; and

WHEREAS, In pursuance of said Act of Congress, and in accordance with its provisions, this Convention was duly elected by a majority of the legal voters in said proposed limits of said Territory mentioned in said act, and is now ready to proceed to the formation of a Constitution to be proposed to the people. Therefore,

RESOLVED, That it is the wish of the people embraced within the limits mentioned in the first section of said act, to be admitted into the Union as a State at this time.

RESOLVED, That the Secretary of the Interior be requested to instruct the United States Marshal to cause a census to be taken of the population included within the limits of the State without delay.

RESOLVED, That the Secretary of the Interior be also requested to instruct the Marshal to furnish to the Secretary of the Territory, a statement of the popnlation of each county immediately after the same shall have been returned to the Marshal.

RESOLVED, Thot a copy of the foregoing resolutions be properly attested by the President and Secretary of this Convention, and forwarded to the Secretary of the Interior immediately.

MODE OF PROCEEDING.

Mr. MEEKER offered the following resolution:

RESOLVED, That the President appoint a Committee of seven, to ascertain what Standing Committees may be necessary to aid the Convention in the prosecution of the business which may come before it.

Mr. SHERBURNE moved to amend by substituting the following:

RESOLVED, That a Committee of seven be appointed by the President of this Convention to consider and report upon the best method of proceeding in forming a State Constitution.

The amendment was agreed to.

The resolution as amended was then adopted.

The PRESIDENT appointed as such Committee, Messrs. SHERBURNE, MEEKER, FLANDRAU, NORRIS, KINGSBURY, DAVIS, and STREETER.

COMMITTEE TO NOTIFY OFFICERS ELECT.

Mr. HOLCOMBE moved that a Committee of three be appointed to inform the officers elect of their election.

The motion was agreed to.

The PRESIDENT appointed Messrs. HOLCOMBE, BAILLY and SWAN as such Committee.

STATIONERY FOR MEMBERS.

Mr. GORMAN moved that the Secretary make a contract for $150 worth of stationery.

Mr. MEEKER moved to amend by inser ting $250 worth of sta tionery.

The motion was not agreed to.

Mr. BECKER moved to amend by allowing each member one dollar's worth of stationery.

The motion was not agreed to.

The vote then recurring on the original motion, it was adopted.

The Secretary elect then came forward and was sworn in.

On motion of Mr. KINGSBURY the Convention then adjourned until to-morrow at 10 o'clock, A. M.

THIRTEENTH DAY.

TUESDAY, July 28, 1857.

The Journal of yesterday was read, corrected and approved.

DECLENSION AND ELECTION OF OFFICERS.

Mr. HOLCOMBE, as Chairman of the Committee to notify the the officers elect of their election, reported that JOHN BELL declined to accept the place of Messenger; also that the Chaplain elect, (Rev. Mr. RIHELDAFFER,) declined to accept the office.

On motion of Mr. KEEGAN, U. A. GAHERTY was appointed Messenger.

On motion of Mr. MURRAY, the Rev. JOHN PENMAN was elected Chaplain of the Convention.

PAYMENT OF POSTAGE.

Mr. WARNER offered the following resolution:

RESOLVED, That the President of this Convention be, and he is hereby authorized and directed, to allow for payment, as a part of the expenses of the Convention, the Postage on all letters and papers sent through the mails by members of the Convention; said letters and papers to be marked "paid."

Mr. MURRAY. I do not think that resolution covers enough ground. I think a Committee should be appointed to contract with the City Post Master for the payment of this Postage. I would suggest that the resolution be offered in this form:

RESOLVED, That the President appoint a Committee of three, who are hereby authorized and required to contract for the Postage of members on letters and papers, sent by them, or received by mail; said letters and papers to be marked "paid."

Mr. WARNER. I will accept the amendment.

The resolution as modified was then adopted.

STANDING RULES.

Mr. A. E. AMES, from the Committee on Rules, reported a code of Standing Rules for the government of the Convention, which was read through.

On motion of Mr. STACY, the report was accepted.

On motion of Mr. NORRIS, the report was laid on the table and ordered to be printed.

METHOD OF PROCEEDING.

Mr. SHERBURNE, from the Committee on the Method of Proceeding to the transaction of the business of the Convention, made the following report:

The Committee appointed to consider and report upon some Method of Proceeding in forming a Constitution, have had that subject under consideration and ask leave to report.

That in the opinion of the Committee it is expedient that each of the several subjects involved in the formation of a Constitution, be, as far as practicable referred to separate and distinct Committees, and that the Convention adopt the following arrangement in the appointment of Committees and in the reference of subjects for their consideration—the Committees proposed, to be appointed by the President of the Convention.

FIRST. There shall be a Committee of three to consider and report a preamble and declaration of rights, and also, in a distinct article, on the elective franchise.

SECOND. A Committee of seven to consider and report upon the several propositions submitted to the people of this Territory by the Act of Congress called the Enabling Act, passed on the 3d day of March, 1857.

THIRD. A Committee of five upon the distribution of the powers of the State Government.

FOURTH. A Committee of nine upon the Legislative Department of the Government, which Committee shall also be charged with the duty of considering and reporting upon the subject of Legislative and Congressional apportionment.

FIFTH. A Committee of five upon the Executive Department, including the subject of appointment to office, and the term of office.

SIXTH. A Committee of seven upon the Judicial Department.

SEVENTH. A Committee of seven upon the Finances of the State, and upon Banks and Banking.

EIGHTH. A Committee of five upon Corporations, and their privileges, not including Corporations for the purposes of Banking.

NINTH. A Committee of seven upon the subject of School Funds, Education and Science.

TENTH. A Committee of five upon the subject of Counties and Towns and the organization of the same.

ELEVENTH. A Committee of three upon the Seal of the State, a Coat of Arms, and design of the same.

TWELFTH. A Committee of three upon amendments to the Constitution.

THIRTEENTH. A Committee of five upon the subject of Military Organization.

FOURTEENTH. A Committee of seven upon Miscellaneous subjects not embraced within the duties of other Committees.

All of which is respectfully submitted.

M. SHERBURNE,
B. B. MEEKER,
J. S. NORRIS,
W. W. KINGSBURY,
WM. A. DAVIS,
O. W. STREETER,
CHAS. E. FLANDRAU.

Mr. STACY moved that the Report be adopted.

Mr. GORMAN. I should like to have another Committee added to the list, on Revision and Phraseology. Such a Committee has been usual in all Constitutional Conventions, and I think that such a Committee ought, by all means, to be appointed. I move that a Committee of three on Revision and Phraseology, be added.

Mr. SHERBURNE. It is a matter entirely immaterial whether such a Committee be appointed or not. The matter underwent the investigation of the Committee. We were, some of us, aware that in ancient times they did have such a Committee, but it seems to us that in this Convention, there are gentlemen enough who would be able to adopt language sufficiently correct to go into the Constitution. I should, however, prefer that the sense of the Convention be taken upon it. I have personally no wish in relation to the matter.

The question was taken and Mr. GORMAN'S motion was adopted.

Mr. BROWN. I would suggest that this Report ought not to be adopted upon a single hearing. It should be read through by sections for amendment. I have, however, one amendment which I will offer at this time. I move that there be added a Committee on State Boundary.

Mr. M. E. AMES. This is the first time I have ever heard of the existence of such a Committee in a Constitutional Convention. From the best of my recollection, the matter is entirely without precedent, and it seems to me to be entirely unnecessary at this time. It strikes me it is not a subject which can legitimately come before a Committee. It is a matter of general importance which must come before the Convention for their action, but I presume that no investigation of any Committee, or any number of Committees, would to any extent whatever, have a tendency to enlighten the Convention upon the subject of the Boundary Lines of the proposed State. I think, therefore, that such a Committee is

unnecessary, and I am opposed to the amendment of the gentleman from Sibley, (Mr. BROWN.)

Mr. BROWN. From the position of the gentleman last up, I should be led to infer that there is to be no boundary of the proposed State inserted in the Constitution, and that the subject is not to be considered at all by the Convention; because if it is to be considered, then it is a proper subject for a separate and distinct Committee. Sir, I think this subject ought to be referred to a separate and distinct Committee, which shall report a provision fixing the boundaries of the State, which shall be incorporated into the Constitution to be voted on by the people.

Mr. MURRAY. I would suggest that the second Committee named in the report covers this whole ground. The report provides for a Committee of seven, to consider and report upon the several propositions submitted to the people of this Territory, by the Act of Congress called the Enabling Act passed on the third day of March, 1857. I think that covers the whole ground.

Mr. BROWN. I do not think so. I have, however, not seen the report, and do not know what it contains, except from its once being read. I have made the suggestion for the purpose of eliciting the information which would satisfy myself upon that subject.

Mr. SHERBURNE. We are here some forty odd members, and the Committee which had this subject under their charge, took into consideration the fact that there were not enough of us to make it practicable for a great number of Committees to work. That was one object in making the number of Committees as few as possible to answer the purposes of the Convention. The second Committee named in the report, seems to me, and seemed to the Committee, to cover the subject which the gentleman from Sibley has suggested. It covers that and covers all other propositions named in the Enabling Act. If it is necessary that we should have a distinct Committee upon each of the separate propositions contained in that act, we can go to work and raise them. There are five mentioned in the last section of the act, and it would require six or eight Committees in all. It was supposed by us that it would be better for one Committee to consider all these propositions, and we therefore proposed to refer them all to one Committee. If that course is not satisfactory to the Convention, they can make such change as they may deem advisable.

Mr. BROWN. I will say to the gentleman who has just taken his seat that Congress has authorized the people within certain limits to form a Constitution and State Government, but Congress has made no distinct proposition in reference to State boundary,

and the subject cannot properly come before the Committee raised to consider the propositions Congress has made to the proposed State, which are the five propositions to which the gentleman has referred, contained in the last section of the Enabling Act. We want a Committee upon that express subject, and I hope my amendment will be adopted.

Mr. MEEKER. I was upon the Committee which had this matter under consideration. We were unanimously of the opinion that the subject referred to in this amendment, was covered by the Committee which is second on the list we have reported. The Committee were desirous not to multiply Committees more than was absolutely necessary, for, although I would suggest to the gentleman (Mr. SHERBURNE) there are more than forty odd members of this body, yet the number is comparatively small, and a large number of Committees would produce inconvenience.

Mr. GILMAN moved that the report be laid on the table.

The motion was not agreed to.

Mr. CURTIS. I would suggest to the gentleman from Sibley that he modify his amendment so as to make it provide for a Committee on the "Name and Boundary of the State."

Mr. BROWN. I will accept the amendment.

The amendment as modified was not agreed to.

Mr. EMMETT. I move to amend the second section of the report by inserting after the word "seven," the words "upon the Name and Boundary of the State," so that the Section will read:

SECOND. A Committee of seven, upon the Name and Boundary of the State, to consider and report upon the several propositions submitted to the people of this Territory, by the Act of Congress called the Enabling Act, passed on the 3d day of March, 1857.

This will make it certain that the subject of the boundary is placed in charge of that Committee.

Mr. BROWN. I question whether the amendment is in order at this time, but I shall not raise the point. It has just been decided that there shall be no Committee to take into consideration the subject of the boundary of the proposed State. What I desired to accomplish was, that a Committee should be raised which would bring up this question separately. It is well known that there are members in this body who were elected upon this issue alone, and I say it is not right that the majority in this Convention should choke them down by giving them no opportunity of having a separate vote upon this question. If the question of boundary is referred to this Committee, they must bring in their report as a whole, and we shall have to vote upon the adoption of a boundary

for the State in connection with that of accepting the five per cent. of the proceeds of the sales of the public lands. Gentlemen here will be compelled to vote for propositions they do not want, or else vote against propositions they do want in the same report. I think there should be a separate and distinct Committee raised to consider this subject. I am opposed to connecting it with anything else whatever.

Mr. SETZER. The position taken by the gentleman is certainly an extraordinary one, that the Convention cannot have a separate vote upon this question because it is reported by a Committee which has other matters in charge. The gentleman knows that the report of that Committee will be considered Section by Section, and that if the Committee report an East and West line, or a North and South line, it will be perfectly competent for any gentleman to move to amend and bring the Convention to a direct vote upon that question by itself.

Mr. EMMETT. I will state that I offered this proposition, simply with a view of enabling those who differed with the majority to be heard. The Convention have decided that they will not raise a separate Committee on the subject. I have, therefore, moved to amend so as to make it directly the business of the Committee to report upon the subject of the boundary of the proposed State, and those who are in favor of an East and West line will have the benefit of the report of a Committee specially charged with the subject.

Mr. HOLCOMBE. I think the Committee is better as it is. If it should turn out that a majority of the Convention were in favor of an East and West line, the proper course would be to accept the line as laid down in the Enabling Act, and then adopt a proviso naming some other line, which should be obligatory upon the people, if Congress accepted the line. In the case of Wisconsin, the people proposed a change in the boundaries of the State, Congress assented to it, and then the people rejected the Constitution. I do not say it was upon that ground alone, but I have no doubt it lost many votes upon that ground. The second Convention fixed another boundary, which should be obligatory upon the people if ratified by Congress. The people ratified the Constitution, but Congress rejected it, and the line finally adopted was that originally fixed by Congress. I think it is proper that this Convention should accept the boundaries proposed by Congress, and if there is any new boundary to be proposed, let it be submitted in the form of a proviso.

The amendment was agreed to.

The report as amended was then adopted.

Mr. FLANDRAU. There is one subject which I intended to have brought forward before the report was adopted. I think with the small number of members there is in this Convention, the number fixed for the Committees to consist of is too large. I think five is sufficient. If I can have the unanimous consent of the Convention to make the motion, I will move that the Committees which consist of more than five members be reduced to five.

Mr. GORMAN. The Committee on Apportionment certainly should not be brought down to that number.

Mr. FLANDRAU. I will except that Committee.

Mr. SHERBURNE. This matter was canvassed very fully by the Committee before they reported it to the Convention. It is true that the number of members of the Convention is comparatively small, but it is also true that the Committees, as reported to the Convention, are only about one half the size of those of any other similar Convention within my knowledge. We fixed the number of some of the committees at five, some at seven and others at nine. All deemed it material that upon the more important committees, the different sections of the Territory should be represented.

Mr. FLANDRAU. My motion was, that all the Committees of more than five members, should be reduced to five. The gentleman will remember that a large number of those who were elected as members of this Convention, have proved refractory and will not appear here.

Mr. MURRAY. I hope the Committee on the Boundaries of the State, will not be reduced to five. It seems to me that all portions of the Territory should be represented upon a Committee which are to have in charge that subject.

Mr. BROWN. I move to reconsider the vote by which the report of the Committee was adopted. Let that vote be reconsidered, and we can then have the matter regularly before us.

The motion to reconsider was not agreed to.

Mr. BROWN. Then I raise the question of order, that the gentleman from Nicollet is not in order, after the Convention has adopted the report.

The PRESIDENT. The Chair overrules the question of order. The Convention have certainly the right in the opinion of the Chair, to revise their action in any matter whatever, as they may see fit.

Mr. FLANDRAU. I was under the impression that it required unanimous consent to submit the motion, but I am gratified that the Chair thinks differently.

Mr. FLANDRAU'S motion was not agreed to.

STANDING RULES.

On motion of Mr. SETZER, the report of the Committee on Rules was taken up, amended and adopted, as follows:

RULE I. Two thirds of the members sworn in shall be a quorum to transact business, but a smaller number may compel the attendance of members, and to adjourn from day to day.

RULE II. Reading of the minutes and corrections,

RULE III. The President shall preserve order and decorum, and decide questions of order subject to an appeal to the Convention. He shall have the right to name any member to perform the duties of the Chair; but substitution shall not extend beyond the hour of adjournment.

RULE IV. All motions and addresses to be made to the President.

RULE V. No motion to be debated or put, unless seconded; and all to be reduced to writing if required by the President.

RULE VI. Ayes and nays to be called for by ten members,

RULE VII. President to name who has the floor.

RULE VIII. No interruption, and on a call to order, a member must sit down.

RULE IX. No conversation while a member is speaking, and no passing between a member who is speaking and the Chair.

RULE X. No reference to members' names in debates.

RULE XI. Motions can be withdrawn by mover before question is put, and amendment made, and another member may put the same.

RULE XII. All Committees to be appointed by the President, unless otherwise ordered.

RULE XIII. None to be admitted inside of the bar, except members, or officers, without permission of the President, or on invitation of a member.

RULE XIV. The previous question shall always be in order in Convention, if seconded by a majority, and until it is decided, all amendments and debates shall be precluded. The question shall be put in this form: "Shall the main question be now put?" If it should be decided that the question should not now be put, the main question shall still remain under consideration; if seconded, the questions will then be taken in their order without further debate. Amendments proposed in Committee of the Whole shall be deemed pending, and in order, if called for by a member.

RULE XV. A motion to adjourn shall always be in order, and be decided without debate.

RULE XVI. In forming Committees of the Whole, the President, before leaving the Chair, shall appoint a Chairman.

RULE XVII. No member shall speak more than twice to the same question, without leave, nor more than once until every other member rising to speak shall have spoken.

RULE XVIII. A motion for reconsideration shall be in order at any time, and may be moved by any member of the Convention. But the question shall not be taken on the same day, unless by unanimous consent, and if lost, it shall not be renewed, or any vote taken on a reconsideration a second time, unless with the consent of the Convention. If the motion to reconsider is not made

on the same day, one day's notice shall be required to be given of the intention to make it.

RULE XIX. The preceding rules shall be observed in Committee of the Whole so far as they are applicable, except so much of the Seventeenth rule as restricts the speaking to more than twice. A call for the yeas and nays, for the previous question, and a motion to adjourn shall not be applicable; but a motion for the Committee to rise, shall always be in order, and shall be decided without debate; but the Journal of the proceedings in Committee shall be kept.

RULE XX. The President may admit such and as many reporters within the bar as he may deem proper.

RULE XXI. Any member may move a call of the Convention, and if sustained by one-third of the members present, the roll shall be called and absent members sent for. After the roll is called, no member shall be permitted to leave the room until the report of the Sergeant-at-Arms be received or further proceedings in the call be suspended by a vote of the majority of the members present. But this rule shall not be applicable to the Committee of the Whole.

RULE XXII. No rule of the Convention shall be suspended, altered or amended, without the concurrence of two-thirds of the members present.

RULE XXII. The Rules of Parliamentary practice comprised in Jefferson's Manual, shall govern the Convention in all cases to which they are applicable and in which they are not inconsistent with the Standing Rules and Orders of this Convention.

RULE XXIV. On the meeting of the Convention, after correcting the Journal of the preceding day, the order of business shall be as follows:

First.—Presentation of Petitions.

Second.—Reports of Standing Committees; Reports of Select Committees.

Third.—Motions, Resolutions and Notices.

Fourth.—Unfinished business of the previous day.

Fifth.—Special order of the day.

Sixth.—General order of the day.

RULE XXV. The hour of meeting shall be nine o'clock A. M., on each day, Sundays excepted.

CONTRACT FOR REPORTING.

Mr. GORMAN, from the Committee appointed to contract with the Official Reporter, submitted the following report:

We, the undersigned, have conferred with Mr. Smith, the Official Reporter to the Constitutional Convention and agree to give him two thousand five hundred dollars for Reporting the Proceedings and Debates, and that the Territory and future State have the copy right and all proceeds thereof after publication.

W. A. GORMAN,
C. E. FLANDRAU,
D. GILMAN.

JULY 28, 1857.

Mr. GORMAN. That is in accordance with the original arrangement which brought Mr. SMITH to the Territory.

The Report was adopted.

PETER ZOLLER was then sworn in as a Messenger.

On motion of Mr. BECKER, the Convention adjourned.

FOURTEENTH DAY.

WEDNESDAY, July 29, 1857.

The Convention met at nine o'clock A. M.

Prayer by Rev. JOHN PENMAN, Chaplain.

The Journal of yesterday was read, corrected and approved.

STANDING COMMITTEES.

The PRESIDENT announced the Standing Committees yesterday authorized to be appointed, as follows:

Committee to consider and Report a Preamble and Declaration of Rights; and also upon the Elective Franchise.—Messrs. MURRAY, CURTIS and STREETER.

Committee upon the Name and Boundaries of the State, to consider and report upon the several propositions submitted to the people of this Territory, by the Act of Congress, called the Enabling Act, passed on the third day of March, 1857.—Messrs. BECKER, BAILLY, MCMAHAN, LEONARD, NORRIS, SHEPLEY and KENNEDY.

Committee upon the distribution of the Powers of the State Government.—Messrs. M. E. AMES, BUTLER, BAASEN, ROLETTE and SWAN.

Committee upon the Legislative Department, which Committee shall also be charged with the duty of considering and reporting upon the subject of Legislative and Congressional Apportionment.—Messrs. J. R. BROWN, MURRAY, DAVIS, SETZER, KINGSBURY, KERGAN, STREETER, MCFETRIDGE and GILMAN.

Committee upon the Executive Department.—Messrs. GORMAN, LEONARD, KENNEDY, STURGIS and GILBERT.

Committee upon the Judicial Department.—Messrs. SHERBURNE, MEEKER, WAIT, EMMETT, FLANDRAU, DAY and BURWELL.

Committee upon the Finances of the State, and upon Banks and Banking.—Messrs. HOLCOMBE, GILMAN, PRINCE, WARNER, NORRIS, BARRETT and STACY.

Committee upon Corporations and their Privileges, not including Corporations of Banking.—Messrs. SETZER, TAYLOR, MCGRORTY, TENVOORDE and CANTELL.

Committee upon the subject of School Funds, Education and Science.—Messrs. A. E. AMES, BAKER, KINGSBURY, ROLETTE, WARNER, WILSON and TUTTLE.

Committee upon Counties and Towns and the organization of the same.—Messrs. EMMETT, MCMAHAN, SANDERSON, DAY and JEROME.

Committee upon the Seal of the State, Coat of Arms and design of the same.—Messrs. NORRIS, J. R. BROWN and BAILLY.

Committee upon Amendments to the Constitution.—Messrs. MEEKER, MURRAY and DAVIS.

Committee upon Military Organization.—Messrs. BAASEN, FABER, DAY, BARRETT and VASSEUR.

Committee upon Miscellaneous subjects.—Messrs. FLANDRAU, STACY, SWAN, BAKER, LEONARD, EMMETT and NASH.

Committee upon Phraseology and Revision.—Messrs. CHASE, MEEKER and MCMAHAN.

NOTICE TO THE SECRETARY OF THE INTERIOR.

Mr. BROWN offered the following resolution which was considered and adopted:

RESOLVED, That the President of this Constitutional Convention, before forwarding to the Secretary of the Interior, the resolutions passed a few days since by this body, relative to securing the taking of the Census of the Territory, have the same certified as a true copy of the original, by the Secretary of the Territory, over the great seal of the Territory.

PAYMENT OF POSTAGE.

Mr. WARNER, from the Committee on contracting for the payment of the postage of members, reported that he had been unable to see the City Postmaster, and requested that the time for the committee to report be extended until to-morrow.

Leave was granted.

LEAVE OF ABSENCE.

On motion of Mr. SETZER, leave of absence for one week, was granted to Mr. McMAHON, in consequence of sickness in his family.

PRINTING OF THE RULES.

Mr. STREETER offered the following resolution, which was considered and adopted:

RESOLVED, That one hundred and fifty copies of the Rules adopted for the government of the Convention, be printed in pamphlet form, together with a list of the Standing Committees, and the names of its members, for the use of the Convention.

ASSISTANT SECRETARY PRO TEM.

On motion of Mr. BECKER, the Secretary of the Convention was authorized to employ an Assistant until the permanent Assistant Secretary shall be in his place.

On motion of Mr. SETZER, the Convention then at half-past nine o'clock, adjourned until to-morrow at nine o'clock, A. M.

FIFTEENTH DAY.

THURSDAY, July 30th, 1857.

The Convention met at 10 o'clock, A. M.

Prayer by the Chaplain.

The Journal of yesterday was read and approved.

The Assistant Secretary appeared and was sworn in.

CORPORATIONS OTHER THAN BANKS.

Mr. SETZER, from the Committee on Corporations other than Banks, presented the following report, which was laid on the table:

Your Committee to whom was referred the subject of corporations having no Banking Privileges, beg leave to submit the accompanying Report:

ARTICLE —.

OF CORPORATIONS HAVING NO BANKING PRIVILEGES.

SECTION 1. The term "Corporation" as used in this Article, shall be construed to include all associations and joint stock companies having any of the powers and priveleges not possessed by individuals or partnerships, except such as embrace Banking Privileges, and all corporations shall have the right to sue, and shall be liable to be sued in all courts in like manner as natural persons.

SEC. 2. Corporations may be formed under general laws, but shall not be created by special acts, except for municipal purposes, and in cases where the objects of the corporation cannot be attained under general laws. All general laws and special acts passed in pursuance of this Section, shall be subject to amendment or repeal by the Legislative Assembly after a certain time specified in such law, and such time shall not exceed the term of ten years, unless the corporation be formed for the construction of a railway or canal, when the Legislature may, at its discretion, grant additional time.

SEC. 3. Dues from corporations shall be secured by such individual liability of the corporators, or other means, as may be prescribed by law.

SEC. 4. Lands may be taken for public way, for the purpose of granting to any corporation the franchise of way for public use. In all cases, however, a fair and equitable compensation shall be paid for such land, and the damages arising from the taking of the same. Any attempt on the part of the corporation, enjoying the right of way, in pursuance of the provisions of this Section, to pervert its privileges from their legitimate construction, and for the purposes of private speculation, shall vitiate such right of way, and the lands shall revert to their original owner.

H. N. SETZER,
W. H. TAYLOR,
W. B. McGRORTY,
XAVIER CANTELL.

PRINTING OF SPEECHES, &C., IN GERMAN AND SWEDISH.

Mr. TENVOORD offered the following resolution:

RESOLVED, That 3,000 copies of the Report of the Committee on Credentials, with the speeches of Messrs. GORMAN and FLANDRAU, be printed in German for the use of the Convention.

Mr. BUTLER moved to add "and the same number in the Swedish language."

Mr. MURRAY was opposed to the resolution in its present shape. The speeches would not be translated and printed until after the

Convention had adjourned. If any one of the German papers of the Territory would publish these speeches, he should be willing to direct the Secretary of the Convention to subscribe for 3,000 copies of the paper.

Mr. TENVOORD thought it very necessary that the German population of the Territory should be informed of what was going on.

Mr. GORMAN was opposed to the whole thing, *in toto*. He did not think the Convention had any right to circulate anybody's speeches at the public expense. Let the speeches be printed in German and Swedish, and he had no doubt the members of the Convention would subscribe liberally for them, as had already been done for these speeches in English.

Mr. BECKER moved to amend so that only the report of the Committee on Credentials should be printed.

Mr. TENVOORD withdrew his resolution.

Mr. BUTLER renewed the resolution providing that the report of the Committee on Credentials should be printed.

Mr. CHASE moved to amend by adding, "and the proceedings of the Convention up to that time."

Mr. EMMETT, hoped that neither the amendment nor the original resolution would prevail. The Convention had no right to circulate documents for political effect at the public expense.

Mr. KINGSBURY moved to lay the resolution and amendment on the table.

The motion was agreed to.

THE MILITIA.

Mr. BAASEN from the Committee on the Militia, made the following report:

The Committee to whom was referred the subject of Militia, beg leave to submit to this Honorable Convention, the following report, to be entitled "Article " and embodied in the Constitution.

ARTICLE.

OF THE MILITIA.

SECTION 1. The Militia of this State shall consist of all free, able-bodied male persons, Negroes and Mulattoes excepted, resident in the said State, between the ages of twenty-one and forty-five years, except such persons as now or hereafter may be exempted by the laws of the United States or of this State; and they shall be armed, equipped, organized and disciplined in such manner, and at such times as may be directed by law. Those who conscientiously scruple to bear arms shall not be compelled to do so, but shall pay an equivalent for personal service.

SEC 2. The Militia of this State shall be divided into convenient divisions, Brigades, Regiments, Battallions and Companies with officers of corresponding titles

and rank to command them, conforming as nearly as practicable to the general regulations of the army of the United States.

SEC. 3. Captains and Subalterns in the Militia; Field officers of Regiments; Brigade Inspectors; Brigadier Generals, and Major Generals, shall be elected or appointed in such manner as shall hereafter be provided by law.

SEC. 4. The Governor shall appoint the Adjutant General and other members of his Staff; Major Generals, Brigadier Generals, and Commanders of Regiments, and separate Battalions shall respectively appoint their own Staff. All Staff officers may continue in office during good behavior, and shall be subject to be removed by the superior officer from whom they respectively receive their appointment.

SEC. 5. All military officers shall be commissioned by the Governor.

SEC. 6. The Militia as divided into Divisions, Brigades, Regiments, Battalions and separate Companies, pursuant to the laws now in force, shall remain so organized until the same shall be altered or regulated by the Legislature.

FRANCIS BAASEN, Chairman.

Mr. BAASEN moved that the report be laid on the table and printed.

Mr. FLANDRAU moved that it be printed in the Journal and not otherwise.

The amendment was agreed to.

The motion as amended to lay on the table and print in the Journal, was agreed to.

NEWSPAPERS FOR MEMBERS.

Mr. BROWN offered the following resolution, which was considered and adopted:

RESOLVED, That each member and officer of this Convention furnish to the Secretary, a list of papers printed in the Territory for which he wishes to subscribe, and that the Secretary subscribe for such papers to be paid out of the moneys appropriated to defray the expenses of this Convention; provided that no member shall be allowed more than ten daily papers, or weekly papers equivalent to that number of dailies.

On motion of Mr. CHASE, the Convention at ten o'clock adjourned.

SIXTEENTH DAY.

FRIDAY, July 30, 1857.

The Convention met at 9 o'clock, A. M.

Prayer by the Chaplain.

The Journal was read and approved.

REPORTS OF COMMITTEES.

Mr. BROWN, from the Committee on the Legislative Department, made a Report, which was read and laid on the table.

Mr. MURRAY, from the Committee on the Preamble and Bill of Rights, made a Report, which was laid on the table.

LEAVE OF ABSENCE.

On motion of Mr. FLANDRAU, leave of absence for four days was granted to the Chaplain, for the purpose of being present at an Ecclesiastical meeting at Winona.

On motion of Mr. HOLCOMBE, leave of absence for five days was granted to Mr. BUTLER, on account of sickness in his family.

REPORTS OF STANDING COMMITTEES.

Mr. MURRAY offered the following resolution:

RESOLVED, That no report from any standing committee shall be considered until the same shall have lain on the table for one day after being printed.

Mr. SETZER suggested that the reports already made should not be included in the rule. He hoped the Convention would proceed to-day to consider the Report of the Committee on Corporations, which was this morning printed.

Mr. MURRAY so modified his motion, and it was adopted.

PRINTING OF THE STANDING RULES, &C.

Mr. M. E. AMES offered the following resolution:

RESOLVED, That 100 copies of the Rules of this Convention, including the Enabling Act of Congress, the names and residences of the Members, and the Standing Committees, be printed as soon as practicable, for the use of this Convention.

Mr. CHASE asked if there was not a resolution already passed for the printing of the Rules.

Mr. M. E. AMES replied that such a resolution had been passed, but he desired that the Rules, the List of Standing Committees, the Names of Members, and the Enabling Act, should all be embraced in the same document, for the convenience of members.

The resolution was adopted.

CORPORATIONS OTHER THAN BANKS.

On motion of Mr. SETZER, the Convention resolved itself into Committee of the Whole, upon the Report of the Committee on Corporations without Banking Priviliges, Mr. M. E. AMES in the Chair.

The Report was read by sections for amendment.

Mr. BECKER moved to amend section two, by striking out in the first line the word "but" and inserting "and," and by striking out in the third line the words "and in cases where the objects of the corporation cannot be attained under general laws" so that the section as amended would read as follows:

SECTION 2. Corporations may be formed under general laws, and shall not be created by special acts except for municipal purposes. All general laws and special acts passed in pursuance of this section shall be subject to amendment or repeal by the Legislative Assembly after a certain time specified in such law, and such time shall not exceed the term of ten years, unless the corporation be formed for the construction of a railway or canal, when the Legislature may, at its discretion, grant additional time.

Mr. B. said: I cannot see why such a clause is necessary. It seems to me that in framing a Constitution our language should be direct and simple. This section as reported by the Committee would permit corporations to be raised outside the general laws just so long as it was the pleasure of the Legislature to pass special acts for their benefit. Now, sir, I cannot conceive of any corporations which could not be created under general laws, and in order that there may be no doubt as to the requirements of the Constitution upon the subject, I propose to provide expressly that corporations shall be created in no other way than by general laws. If you leave the Legislature to determine whether special acts are necessary you will have your statute-books filled with acts for special corporations. For one I am opposed to it. I want to see the Constitution so framed that it will be impossible to incorporate one single company, except under general laws, within the limits of the proposed State.

Mr. SETZER. The object of the Committee in framing this provision was, to provide for corporations which it will be impossible to frame general laws to cover. For instance, corporations for the construction of railroads and canals, which must involve the granting of the right of way, and the granting of other special privileges which cannot well be made to come under any general law. It is to make provision for any special emergency that the Committee have inserted this clause. The gentleman will see that the section prohibits the Legislature from granting any special charter or passing any general law that is not subject to repeal or amendment by the Legislature of the State.

Mr. FLANDRAU. I hope the amendment will not prevail. The object of the Constitution is to restrict the action of the Legislature; but if we attempt to be so specific in our restrictions as to take from them all discretion in the creation of corporations, it

seems to me we shall impede very seriously the progress of the country. That the creation of corporations under general laws is, as a general thing, the safest manner, is undoubtedly true; but that there are associations of persons and capital to carry out great works of improvement, which cannot be successfully prosecuted under any system of general laws is also most certainly true. It seems to me, in a country which has so many unknown resources, as past developments show this Territory to have, it would be exceedingly unsafe to prohibit the Legislature from special action on the subject of corporations in any case of emergency whatever.

Mr. SIBLEY. I am in favor of the principle embodied in the amendment of the gentleman from Ramsey. I think one of the greatest evils of legislation, particularly in this section of the country, has been that the Legislature has devoted itself particularly to the creation of charters of private companies, and in granting special privileges. I want to see it done away with, as far as possible. But there is a good deal in what fell from the gentleman from Nicollet (Mr. FLANDRAU.) We must be careful about being too stringent in the restrictions which we are to place upon the Legislature. I presume it will be somewhat difficult to arrive at the proper medium. I would suggest to the gentleman from Ramsey, that he endeavor to modify his amendment so as to make it a little less sweeping in its character. I can see an evil which will arise, both from striking out, as proposed by the gentleman from Ramsey, and in retaining the Section as reported by the Committee. I am certainly in favor of restricting the Legislature as far as it is possible safely to do so, and at the same time it seems to me it would be unwise absolutely to prohibit them from creating under any emergency that may arise, any special charter whatever. I should dislike to see either the original Section or the amendment adopted precisely as they now stand. I would suggest that this matter had better remain open for discussion for the present, and see if we cannot arrive at some medium which will meet the circumstances we wish to provide for.

Mr. SETZER. I will simply call attention to the fact that the Legislature have in this Section, as reported by the Committee, no power whatever to grant special charters where the object can be attained under the general laws. The Legislature has no discretion in the matter. It is controlled by the Constitution, and the judge of the Constitution is the Judiciary. We have, therefore, not only deprived the Legislature of any power to pass acts of special incorporation, where the object can be attained under general laws, but we have deprived them of the power of judging as

to what objects are the proper subjects of special legislation. Under the Constitution of New York, the Legislature is made the judge. The provision reads:

"Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the objects of the corporation cannot be obtained under the general laws.

In taking this Section from that Constitution, we left out the clause permitting the Legislature to judge of the necessity for the creation of special charters. If the Legislature, under this provision, sees fit to create corporations by special charters, it will be for the Judiciary to determine whether the objects of such corporations could have been attained under the general law, and if so, such charters will be void. This was the object of the Committee in framing this Section. If, however, in the opinion of gentlemen, it admits of any doubt, and they will introduce an amendment, expressly taking from the Legislature the power of judging in such cases, I will vote for it. It was our intention to deprive the Legislature of the power of determining, but I think it is wrong to deprive them of the power of passing any special act of incorporation under any circumstances whatever.

Mr. MEEKER. It is undoutedly true that special legislation is one of the curses under which we live, and it is especially true in the Valley of the Mississippi. It is important, especially in Minnesota, where our statute books are cumbered with hardly anything else than acts granting special privileges to rival companies, that something should be done to prevent the continuation of this evil. The great evil here has really been, that nearly all the time of the Legislature has been taken up in legislating for these rival companies and in filling our statute books with acts of this character for corporations, not one in a hundred of which is ever carried into operation. They remain a dead letter in our laws. But still in framing the fundamental law under which we are to launch out as a State, we should be careful how we adopt extreme measures. It will be extremely difficult, if not impossible, for any Legislature to pass general laws which will be sufficintly comprehensive to cover all objects of incorporation. We have a great many public improvements which it is of very great importance should be made. We have a great many rivers which are navigable, and a great many which are nearly so, which must be improved by means of associated capital. It cannot be done by individuals, and it will not be our policy to carry on such works of improvement, as a State. There are improvements of this nature which will be eventually made in the St. Croix, in the Minnesota river, and in the Upper

Mississippi. There are railroads to be built, there will be corporations for scientific, historical and ecclesiastical objects, which cannot be reached under any general law which it will be possible to form.

Sir, in my opinion, this power ought not to be taken from the Legislature. Let corporations for general objects be formed under general law, but leave to the Legislature the power to pass acts of special incorporation for special emergencies. They have in the State of Missouri, I believe, a general law for railroad corporations, but it has thus far remained a dead letter upon their statute books. Every railroad that has gone into operation in the State, has gone by virtue of special legislation, and special legislation is absolutely necessary in such instances to draw together the capital which is necessary for the development of the resources of the country. For one, I know of no objection to this provision as reported by the Committee, and I shall vote for it.

Mr. SIBLEY. I wish to correct my friend, who has just taken his seat, in reference to one or two matters, to which he has adverted. In reference to general laws for railroad purposes, I will state that there is a general law in Iowa, upon that subject, to which my attention has recently been specifically called. I know of my own knowledge, that there are railroad companies existing under that general law, and in the pretty extensive communication I have had, within the last few weeks, with persons from that State upon this subject, I have heard no one complain that all the objects of such corporations could not be attained under such laws. One of the Companies formed under that general law, are now trying to form connections with lines running up into this country, and they regard the provisions of the law as sufficiently liberal for the attainment of all the objects they desire. In this case a general law has been found, from actual trial, to answer all the purposes of such corporators, and why should we not be willing to give them a trial ourselves.

I suggested that there was a difficulty in the provision reported by the Committee, as well as in the amendment proposed by the gentleman from Ramsey, (Mr. BECKER.) But I think the provision on this subject in the Constitution of Michigan is preferable to that in the Constitution of the State of New York, from which I understand this section was copied. The section in the Constitution of Michigan reads as follows:

Corporations may be formed under general laws, but shall not be created by special act, except for municipal purposes. All laws passed pursuant to this section may be altered, amended or repealed.

It has been suggested by a gentleman who is more conversant with the laws of that State than I am, that this provision of the Michigan Constitution has been found to work well.

Now sir, I am, for one, opposed to all special legislation. My friend from Washington, (Mr. SETZER,) will agree with me that the curse of the legislation of this Territory has been its special character. Why sir, nine tenths of the time of the Territorial Legislature has been taken up in the passage of acts giving special privileges in advance of all others, to certain companies of men, to which they had no especial claim.

The whole Territory is flooded with these special charters. I am in favor of cutting them down in the future as far as is consistant with the public advantage. I do not want to cripple these people, but I want justice done to all, and I am prepared to go to the utmost extent that propriety will admit, in putting a provision in this Constitution that will put a stop to special legislation in future.

Mr. MEEKER. I will enquire of the gentleman from Dakota, whether the people of Iowa have found their general law sufficient to cover all objects of incorporation, or whether they have not found themselves, notwithstanding their general law, frequently under the necessity of passing special acts of incorporation? If I mistake not, most of the railroads which have gone into operation in that State, have been under special charters.

Mr. SIBLEY. I have no further knowledge on the subject than what I have learned from these men who are engaged in building the railroads I have mentioned. They have told me that they have found their general law to answer every purpose; and that whenever they have found it necessary to depart from this general law in any way, in consequence of peculiar circumstances, they have procured an alteration in it to cover the case. As I have said, I am opposed to this granting of special privileges to particular classes of persons. I think it is perfectly practicable for the Legislature, in case of special emergencies, to so enlarge the general law in its application, as to make it cover them without the necessity of resorting to special legislation. Let it be done by general law, so as to give every class of persons the same privileges.

Mr. MEEKER. I have only to add that it seems to me this section, as originally reported, seems to accord precisely with the the last explanation of the gentleman from Dakota, (Mr. SIBLEY.) He wishes that the Legislature shall be required not to pass special laws when the objects can be attained by general ones, but that they shall have the power to adapt the general laws to partic-

ular cases. Now it seems to me that is about the substance of this section, which reads:

Corporations may be formed under general laws, but shall not be created by special laws, except for municipal purposes, and in cases where the object of the corporation cannot be attained under general laws.

Now sir, there has been a great deal of shilly-shally legislation which has been already alluded to, in this Territory, but that would not justify us in tying up the Legislature for all time to come from granting charters to necessary, meritorious companies, whose objects cannot be attained under general laws. It would drive the people of Minnesota, in my opinion, to an amendment of their Constitution in less than five years. We have so many internal improvements to be made, slack-waters in our rivers, channels to be deepened, railroads and turnpikes to be built—everything has yet to be done, for nothing has been done,—that it seems to me it would be exceedingly unwise not to repose some discretion in the hands of the Legislature.

Mr. A. E. AMES. I do not precisely like this section as reported by the Committee. I have had some little experience in the operation of a Constitution which undertook to tie the hands of the Legislature from passing special acts. That was the intention of a clause which was inserted into the Constitution of Illinois. But, sir, the first and second sessions of the Legislature held afterwards, of which I had the honor to be a member, passed more special laws than any two sessions since the formation of their Government, and I have no doubt that if we leave the Legislature as this section leaves them, you will find that they will pass just as many special acts as the good people of Minnesota ask for. I should like to see a provision introduced something like this:

Corporations may be formed under general laws, and should not be created by special law, except for railroad, canal and municipal purposes.

Mr. FLANDRAU. I have listened to the debate upon this subject with some interest. There has nothing yet been mentioned which cannot be attainable under general law. It has been shown that railroads may be built under general laws, and in my opinion, general laws are the best for that purpose. It makes the system of railroading uniform throughout the State. Every railroad has precisely the same guards for public safety, and all work under the same general system of rules and regulations. There is no reason why general laws may not be adapted to companies for the construction of ferries and companies of almost every description, whose special charters abound in our Statute Books, except for municipal purposes. Well now, sir, it seems to me that if just

this latitude were granted to the Legislature, any departure from it would render the law invalid. But the gentleman from Hennepin, (Mr. A. E. AMES,) seems very much afraid that if any discretion is left with the Legislature, they will branch out into special legislation for everything as they have done under the restriction clauses in the Constitution of Illinois. Why, sir, if the Legislature undertakes to pass any law under this resolution, granting a charter to any company whose object could be attainable under general law, that law would be invalid, and the courts would so decide; and I think capitalists will be slow to invest their money under charters which the courts may at any time declare invalid. But, sir, there may be some electric power, some æranaut mode of navigation, something may turn up. It is not at all an exaggeration to suppose that something may be discovered or invented, which may render special legislation necessary to bring it out. There are many things which a little time for reflection would suggest, that are proper to be left open for special legislation, and in what manner can it be done except by giving the Legislature some discretion to act in such cases? There is no possibility of passing objectional acts of special legislation under the clause as it now stands. Suppose a man asks for a ferry charter; the Legislature would not grant it to him because his object can be attained under general laws. The Legislature would of course refuse, and in that way, we should free our Statute Books from that class of legislation which now fills them. But take away all power on the part of the Legislature to pass special acts in any case whatever, and I will venture to say, that in less than four years it will be regretted all over this country. It will check and embarrass enterprise. On the other hand, I cannot see that the section as it stands, is open to any of the objections which have been urged against it.

Mr. SIBLEY. Can the gentleman conceive of a class of cases which cannot be reached under general law?

Mr. FLANDRAU. I suggested some new motive power.

Mr. SIBLEY. It would be very easy to pass some general law which would cover that.

Mr. FLANDRAU. But circumstances might arise where it would be well to grant some special privilege for the purpose of bringing out a new discovery.

Mr. A. E. AMES. Even in that case, the gentleman has had experience enough in Legislatures, and knows enough of the acuteness of Legislatures in avoiding Constitutional Privileges, to per-

ceive that they would, by incorporating some provisions into the general law, avoid any constitutional difficulty.

Mr. WAIT. I think the amendment of the gentleman from Ramsey (Mr. BECKER,) should prevail. It seems to me that the clause which is proposed to be stricken out is ambiguous, and may be avoided by special charters for almost every object. It seems to me that every object may be reached by general laws. I think this Convention should be very careful about granting special privileges. I see no reason why a general law may not be framed to cover the objects of ferry companies, railroad companies, boom companies, and every kind of improvement. I can conceive of no case which may not be reached by general laws. If, as the gentleman from Nicollet (Mr. FLANDRAU,) suggests, an extraordinary case should occur, why, sir, it is very possible that other cases similar may follow, and why not pass a general law which shall cover it? I am in favor of the amendment offered by Mr. BECKER, and I hope it will prevail.

Mr. MEEKER. If the view taken by my friend from Stearns county is to prevail, we shall be as much cursed by general legislation as we have been heretofore with special. Instead of special acts in each case of incorporation, we shall have general legislation to apply to each special case, though there may never another similar one arise.

Mr. WAIT. And why not? These powers exist in the first place in the people, and why not have our legislation so that every one may have the advantage of it, if he chooses to do so? I know of no reason why these rights should be vested in particular individuals to the exclusion of every one else. Let our legislation be free and open to every one who chooses to avail himself of it.

Mr. SETZER. It is a certain fact that one extreme follows another. Our Legislatures in past sessions have had too much special legislation, and now we propose to go to work and have none at all. We have been told that other States have general laws for railroad purposes, and that railroads are built under those general laws. Well, sir, it may be so. I have no authority to dispute it. But I will call the attention of the Convention to one fact. Every general law which authorizes companies to build railroads must provide for granting them the right of way. Now, sir, is this Convention prepared to grant the right of way to every person, or every set of persons who may take into their heads to disturb their neighbors, the right of way through the farm of anybody they may see fit to disturb? I do not say that persons would undertake to construct railroads for any such purpose, but they may carry on sur-

veys very much to the annoyance of others. They have the right under a general law to institute surveys right through the farm of any person, and he has no resource or redress. A number of men may associate themselves together for railroad purposes, and cause surveys to be made for the purpose of bringing some locality into notice without any intention of ever building the railroad. We are surrounded by a generation of speculators. Every little place wants a railroad, in order to raise the price of property in that place, and the proprietors would go on making surveys in every direction, running through people's farms, without any means of redress. But railroads are not the only species of object which cannot be attained judiciously under general laws. If objects which can be attained by general laws are acted on specially by the Legislature, such legislation will be void by this Constitution, and I cannot, therefore, see what valid objection gentlemen bring to this Section.

Mr. MEEKER. Gentlemen say, why not have general laws for Corporations, which shall extend the same privileges to all. Now, sir, as I have already remarked, we have within our borders some rivers which are navigable, and some which may be made so. All navigable streams are declared National Highways to the citizens of all the States; but suppose a private Company undertakes to render streams navigable for the purpose of accomplishing a great public good to the commerce of the Territory, and the development of the country through which it runs; and suppose the Legislature, in consideration of this Company having made the stream a great highway for commerce, should wish to give them the exclusive advantage, for a term of years, of the improvements which they have made, would your general law reach a case of that kind? Sir, there are many cases which a general law can never reach, and I submit that it is unwise for us to take from the Legislature all power of Special Legislation in cases which cannot be covered by general laws.

Mr. HOLCOMBE. I have listened to this debate with a good deal of interest. I am opposed to the amendment which proposes to strike out the words in the section as reported by the Committee, giving the Legislature power, under certain contingencies, to grant special privileges. As my colleague, (Mr. SETZER,) has very properly remarked, one extreme is very apt to follow another, but from the remarks which have been made on both sides, I cannot exactly determine how gentlemen would have it. I could not determine from the remarks of our honorable PRESIDENT, what was his wish on the subject. He said he was oppposed to

making the provision so stringent as the amendment would make it, and he was opposed to giving so much latitude as is contained in the original section. For myself, I think the section is right as it stands. Certainly, under that section no honest Legislature would pass any special act for any object which could be attained under general laws. I admit that it is possible for the Legislature to abuse their power, but I ask if it is not better to suffer abuse for the present, rather than go to the other extreme of restriction? I admit that there is a great deal of unnecessary legislation upon our Statute books, but whose fault is it? If gentlemen will look into the Revised Statutes they will find general laws for almost everything, and it is because the people have not taken advantage of those general laws, that we have had so much special legislation. Now, sir, I think this provision, as it stands, will restrain the Legislature from any unnecessary special legislation. It seems to me it would be dangerous to tie up the hands of the Legislature from all power to pass special acts, whatever may be the emergency.

One gentleman, my friend from Hennepin, (Mr. A. E. AMES,) wishes that the Legislature shall be prohibited from special legislation generally, but would except municipal corporations and Railroads. Another gentleman from the same county, (Mr. MEEKER,) would have works of improvement in the navigation of our rivers excepted, and I have no doubt if we were to examine the subject thoroughly, we should find other objects which it would be proper to except. I think this clause was for wise reasons put in the section by the Committee, and I am opposed to it being stricken out.

Mr. BECKER. When I offered this amendment, I thought perhaps some gentleman might mention some class of objects which could not conveniently be embraced under a general law, but as yet, no gentleman has alluded to any such Corporations. The gentleman from Nicollet, (Mr. FLANDRAU,) admits that no such objects have yet been mentioned, but thinks something may arise. Now, I ask if there is any gentleman present who can mention a single object of incorporation which cannot be attained under general laws?

Mr. FLANDRAU. I have no doubt that with an hour's reflection such cases might be mentioned. I would suggest a Historical Society for instance.

Mr. BECKER. It could very well be embraced in a general law for the incorporation of Scientific Societies. I should be very willing to wait an hour for the gentleman to reflect, if I thought he could mention one. But, sir, this is no new experiment with

us. It has been tried in other States and tried successfully. It has been tried in the State of Michigan. By the Constitution of that State, adopted in 1850, it is provided that

> Corporations may be formed under general laws, but shall not be created by special act except for municipal purposes. All laws passed pursuant to this section, may be altered, amended or repealed.

Now that is the form which I would prefer to see adopted. The last portion of the section before us, provides that these laws may be altered, amended or repealed, after a term of years. I would prefer to see the Legislature have the privilege of altering, amending or repealing such laws at their option, at all times. We all know that these Corporations are continually grasping for special rights, and special privileges which are denied to the great mass of our citizens.

Sir, I consider this section as reported by the Chairman of the Committee having charge of this subject, worse than it would have been if he had copied the New York provision entire. The gentleman says, the Courts are to ascertain whether the subjects of a corporation could have been attained under the general laws of a State. Yes sir, it is the privilege of any man to fight a corporation; it is the privilege of any citizen to go into the Courts and fight a monopoly, but what citizen wants to do it? What man desires to put his hand into his own pocket, to fight a great monied Company which has been organized for the purpose of taking away the rights which belong to the community. It would have been in my opinion, much more proper to have left the matter wholly in the discretion of the Legislature, than to have left it where it is now. I am opposed to the whole thing. There has been not one object mentioned which could not be accomplished under general laws. In Michigan they are building all their railroads to-day under these general laws. I say again, that I do not believe there is a single advantage that can be properly attained under special laws, which will not be equally as well attained under general laws. And I do not believe there is to be any development of our resources in the future, which it will not be perfectly practicable to frame general laws to meet. I had some doubt of the propriety of this amendment, when I offered it but after the discussion which has taken place, I am perfectly certain that it ought to be engrafted into the Constitution.

Mr. HOLCOMBE. I will state in reply to the gentleman who was last up, that the article as reported from the Committee according to his own version of the case, will accomplish all he desires to attain. He says there are no objects which cannot be

reached by general laws. If there are none, then under the section as it stands, the Legislature can pass no special laws.

Mr. BECKER. The gentleman differs with me upon that point somewhat.

Mr. SIBLEY. The gentleman is too old a man, not to understand the manoeuvers to which the Legislative bodies resort to accomplish their object.

Mr. HOLCOMBE. I beg the gentleman's pardon. I have never been a member of a Legislative body.

Mr. SIBLEY. The gentleman may have never been a member of a Legislative body, but his powers of mind have been brought to bear upon the subject enough to have discovered that fact. Now sir, as the gentleman from Ramsey (Mr. BECKER,) says, I have not heard a single class of cases mentioned which could not be well included under the provisions of a general law.

We are here sir, for the purpose of forming a Constitution for a new State. We are here in the far West—the Democracy—assembled to make a Constitution, and I want to see one that is Democratic. Now sir, so far as the recommendations of the Committee upon this subject, are concerned, I do not think they are radical, I do not think they are Democratic. I think they leave matters pretty much where they are now. It has been well said that our statute books are flooded with this special legislation, and I think something ought to be done, to put a stop to it. We ought without interfering in any way with the developments of the material interests of the Territory, take such steps as shall arrest the further progress of this special legislation.

The gentleman from Washington, (Mr. HOLCOMBE,) stated that I had said I did not like either the original section or the amendment Now sir, between the two, I should much prefer the amendment to the section, as reported by the Committee. It seems to me that it will accomplish more good and do far less harm. For myself, I should prefer the clause on the subject contained in the Michigan Constitution. That seems to me to be sufficiently stringent, and at the same time, to be sufficiently liberal. But sir, I hope that something will be done to stop the further progress of this special legislation. I am willing to go before the people with an instrument that shall be radically Democratic in its parts, and I believe the people will sustain us in it.

Mr. SETZER. The gentleman from Saint Paul, (Mr. BECKER,) did not state the case fairly in his last argument. There is an an express provision that the Legislature shall not pass any special act, the object of which is attainable under general laws

and I stated that if the Legislature violated this provision and passed special acts, the objects of which could be attained under general laws, the courts would decide such legislation to be void. But the gentleman says that an individual citizen will not feel like fighting, single handed, a corporation. Let me ask the gentleman whether he or any other man would be likely to invest capital in a corporation which the courts had the power of declaring void, whenever the case was brought before them? No sir. Speculators who proposed investing capital under a special charter granted by the Legislature in defiance of this provision, would be careful to obtain the judgment of the courts as to the validity of their charter, before they would invest much capital or incur much expense. No legal gentleman here will say that this provision would not be binding in law against any act of the Legislature passed in violation of it, and I can certainly see no objection to the clause, as reported, being inserted. It can do no harm, for if, as gentlemen tell us, there is no object of incorporation which cannot be attained under a general law, then no special legislation can occur under this provision, if it is inserted in the Constitution. It seems to me that we are distrusting the people by saying that in no future time shall their representatives pass any special act, which, in their judgment, may be necessary and attainable in no other way.

It will be observed too, that by the latter part of this section, the power of the Legislature to pass any laws relative to corporations, is restricted to a very considerable extent, by restricting the time to ten years. No power is given to pass perpetual acts. The time of its continuance is regarded to be fixed by the law and the longest time which can be fixed is ten years. Now sir, the Legislature are thus restricted in granting special charters, if it shall ever be found necessary to grant them. They are restricted in every way by this section, and I confess I cannot see what object is to be attained by striking out the clause to which the amendment relates.

Mr. EMMETT. I am a little like one gentleman who has already spoken; I hardly know whether to go for or against the amendment, because I think the thing is good enough either way. If the amendment fails, I shall have no fears of the effect of the section, as it stands. I believe the Committee have intended to provide for every objection that could arise. Whether they have done so or not, however, seems to be a matter of doubt. Gentlemen have argued this section as if it read in this wise:

Except for municipal purposes, and in cases where the objects of the corporation cannot, in the opinion of the Legislature, be attained under general laws.

I do not think this thing lies in the discretion of the Legislature at all. If the Legislature were to assume to grant special charters for objects which could be attained under general laws, the courts would decide them to be unconstitutional. It is not in the discretion of the Legislature to pass such laws; if it were, it would be another thing. One gentleman says, a single individual will not contend against a mammoth corporation, but that objection was fully answered by the gentleman from Washington, (Mr. SETZER,) by saying that capital will not be likely to invest in illegal corporations. I think, therefore, the section is well enough as it is, and at the same time, I see no harm which will arise from the adoption of the amendment. I should, however, be in favor of amending the section in the latter part, by striking out that part which fixes a term of years in which the Legislature may not alter or amend the charter. I would rather have it entirely in the discretion of the Legislature to alter, repeal or amend at any time, and then I think the section is right as it is. I think that the Legislature have that power at all times, and I am opposed to this latter clause because it asserts, by indirection, that the Legislature has not that power. I think if that amendment were adopted, the section would be proper as it stands.

Mr. BROWN. I must say that with what little experience I have had in the way of the passage of special acts in this Territory, I believe every case can be covered by general laws. The gentleman from Washington, (Mr. SETZER,) says that men will form corporations for railroads for the purpose of obtaining the right of way through their neighbor's farms to annoy them, and yet he says they will not invest capital where it may be thrown away by an adverse decision of the courts. Now sir, I hold that the same rule will prevail in both cases. Money is the prime word in corporations as well as in individuals, and I will warrant that no railroad company will ever obtain a charter simply for the purpose of giving annoyance to certain individuals along the line of the proposed railroad.

Mr. SETZER. I said that corporations of this discription might be formed for the purpose of speculation in town lots.

Mr. BROWN. If gentlemen see fit and proper to organize themselves into associations, under general laws, for the purpose of improving their property, whether in town lots or in farms, or in any other shape, they have a perfect right to do so; and no injury will be incurred by the community in consequence of their doing so, that I can see. Let them survey as many railroads as they choose, and if they do not construct them, they will do no harm to

the portion of country which is surveyed. If they construct the railroads, they are developing the material interests of the country, and are a benefit to the community. Such corporations will expend money when they expect to receive a benefit by it, and they will expend it in no other case if they can help it.

It has been argued that there can no harm result from the insertion of this clause into the Constitution, because if there are objects of incorporation which cannot be attained by general laws, no special acts will be passed. Now sir, if you will look back over our Statute Books, you will find that there is a general law, for instance, by which ferry companies can be incorporated for a certain number of years. Yet men have come here year after year asking for charters for a longer term of years than was provided for in the general law, and the Legislature, instead of altering the general law, have passed these special acts, and so it has been in regard to other general laws, when these applications came for special acts, granting special privileges, instead of amending the general laws to meet the case, they have passed special acts. And so it would be under this section, as it now stands. If the general law did not provide for a sufficiently long term, they might grant special acts providing for longer terms, and I do not think such acts would be unconstitutional, because the objects could not be attainable under the general laws. Any act may be passed under this section, granting any privileges which are not provided for in the general law.

If the power of passing special acts is entirely removed, the Legislature will frame their general laws to cover all cases which are required to be covered by any emergency that may arise, but unless this is done, there will be no such general law passed, and special legislation will go on the same as before.

Mr. STURGIS. I offer the following amendment, which in my views will cover everything that is desirable to accomplish :— Strike out all after the words "municipal corporations" to the end of the section, and insert the words "railroads and such other public improvements as may be of general interest to the State," so that the section as amended would read :

Corporations may be formed under general laws, but shall not be created by special acts except for municipal purposes, railroads, and such other public improvements as may be of general interest to the State.

Mr. SETZER. If no one wishes to discuss this matter further, I propose that the Committee shall rise, report progress, and ask leave to sit again. I am opposed to leaving the matter where it is until gentlemen have fully satisfied themselves as to the shape this matter should assume.

Mr. GORMAN. The same questions must again necessarily come up, and they may as well be discussed now as at another time.

Mr. SETZER. If the gentleman wishes to speak, of course I withdraw my motion.

Mr. GORMAN. While I am on the floor I may as well give my reasons why I am opposed to nearly everything there is in that section. I am in favor of adopting about these words, and I shall perhaps at some future time attempt to demonstrate why, in my opinion, they should be incorporated into the Constitution:

Corporations shall only be formed under general laws; and all such corporations shall be under the control of the people, through their Legislature. Ample provision shall be made for making each stockholder individually liable for the amount of stock held by him.

Mr. CHAIRMAN, the construction of the Constitution of the United States by the great political party with which we have all acted from our earliest infancy to the present hour, is this: No power is to be exercised unless it is expressly granted, or is necessarily incident to some express grant. That, sir, is the construction which the Democratic party has always given to the Federal Constitution; and the reverse has always been held by the Federal party, from the adoption of that instrument in 1789 down to within the last fifteen years. In States, the rule is precisely the reverse. All power may be exercised by the State which is not expressly reserved by the Federal Constitution; but what we have to do in framing a Constitution for a State is, to forbid the exercise of powers which have been demonstrated previous to the present time to be productive of calamities rather than benefits to the community. Now, sir, there is nothing known in the American nation so dangerous to liberal institutions as corporations; there is nothing which is so much occupying the sober attention of American statesmen as the subject of corporations, particularly as developed in the Western States. Public credit is being affected—public confidence is being shaken, and the commerce of the world is affected by our American corporations. No calamity can ever befall a free people so rapidly or so certainly as that produced by a combination of wealth acting upon the great masses of mankind. No power is so potential; no power has ever exercised so great an influence over our destinies as that of corporations. A struggle was passed through in the American Union second only in importance to that of the American Independence, when the great Democratic party of the country fought against and overcame the United States Bank, in consequence of the influence which it exercised on the institu-

tions, the finance and the commerce of the country. Corporations have spread since that day; they have extended through all the States; they have controlled the Legislatures of States: and even Minnesota has not been an exception, for we too have our corporations. They commence in the Legislative Halls at Washington; and, unfortunately for the country, they commence in the Senate of the United States,—that most dignified and perhaps the most talented body on the face of the earth. There, corporate bodies approach the Senate of the United States under the guise of steamship companies, and ocean steam-navigation companies, and in various other shapes. It has been passed from the Senate to the other House of Congress, and through all the States, until at this day the financial credit of the country is groaning under the corporate powers which have arisen by the creation and protection of the various State Governments. And they have not been confined to navigation, railroad companies and manufacturing companies alone: they have extended also to banks;—and I should be giving the lie to my whole political life if I did not place upon record in this deliberative body my opposition to the establishment of a power for conferring special privileges upon corporations to the exclusion of the masses. I deny that it is Democratic to give one man special privileges which are denied to others, whether it is for the purpose of corporators or for any purpose whatsoever. I deny that the man who would confer such privileges is or can be a Democrat. I repudiate the idea, and the People will repudiate the idea, that any man can be a Democrat who says that powers and privileges can be conferred upon the few to the exclusion of the many. I mean Democrat in that comprehensive sense in which it was understood when the great Democratic and Federal parties stood face to face before the country. I deny that it is a Democratic principle—I deny that it ever can become a principle of that great Democratic Party whose great corner-stone is based upon the doctrine of equal rights to all men, exclusive privilege to none. When you pass a general banking law,—if you pass such a law at all,—you give equal rights to all our fellow-citizens, and exclusive privileges to none. If we are to have banks, let them be formed under a general law, with powers specifically defined, duties specifically enjoined, and commands specifically set forth. Let that law be framed so that when I say to a man, I may enjoy the rights and privileges granted by it, he can turn round and answer: "So may I." No other rule is Democratic, or I have been educated in the wrong school and in the wrong house. I am in a company of strange men if the Democratic Party is to form a Constitution which is to

give the Legislature the power to grant to one set of men rights and privileges which are denied to all. I have before me a speech made by JAMES BUCHANAN, the President of the United States, upon the United States Bank, to which is due the sentiments, and almost the language I have uttered.

Sir, while I remain in political life, I shall abide by the landmarks of that political party with which I have always acted, which has remained the same from the commencement of the government to the present hour. No man can point to an act where special privileges have been conferred upon any set of men to the exclusion of the masses, by the Democratic party as a party.

"Corporations shall only be formed under general laws; and all "such corporations shall be under the control of the people through "their State Legislature." That, sir, embodies the principle in which I was educated from my earliest childhood, and neither my voice nor my vote shall be cast for any other doctrine from this time until you adjourn. And not only will my voice be raised against it, but my vote will be against it; I will fight it to the last. I say that this has been the doctrine of the Democratic party from the beginning. You may find individual instances of men claiming to be Democrats, you may find instances even where the Democratic party in particular localities has been rent in twain upon the doctrine of granting special privileges, but I defy you to point me to a single instance where the Democratic party as such, has espoused any other sentiment than that of equal rights for all. We have learned to lisp that sentiment from our earliest infancy, as the first lessons of Democracy. I had intended to read some reasons of men from different States upon this subject from a book which I have before me, but I will not detain the Convention at this time.

But, sir, if I find this measure is going to pass in any shape other than that I have indicated, I shall take occasion to read to the Convention some precedents which I have in my possession, showing up some of the enormities which have been perpetrated under this system of special privileges. Sir, if I find that this measure is to pass as I said, in any other shape than that I have indicated, I shall, like a good Democrat, submit to the will of the majority of the members present, but I shall not submit until I have entered my solemn protest against this violation of a fundamental rule under which the Democratic party have acted ever since the foundation of the government.

You ought not to permit any set of men whatever to have rights granted to them which are not general in their application. Let

your Legislatures confine themselves to the passing of general laws. Let them prescribe general rules and regulations under which manufacturing companies, and railroad companies, and every description of corporations shall be created and governed alike. Let them make another section which shall grant powers, immunities and privileges to municipal corporations, enumerating what powers, privileges and immunities shall be enjoyed. My friend from Sibley, (Mr. BROWN,) knows something about these special privileges for municipal corporations, and a good many of us have come in for the same thing. But, sir, my friend before me (Mr. FLANDRAU,) will find himself at fault when he undertakes to specify a single case of special incorporation, where the object could not be equally accomplished under a general law.

Then, when we have passed this provision, that all corporations shall be created under general laws, I know that the talent and ingenuity of my friend before me, will be sufficient to frame a general law which shall cover all legitimate and proper objects of incorporation. I should deeply regret the necessity of placing my signature to a Constitution which had one sentence in it in violation of that great Democratic principle. I shall not content myself with being silent when such questions are presented.

When your general law has passed, in the progress of events, amendment may become necessary. If so, the people's omnipotent will be done! When your general law has passed, in the progress of events, new developments may be brought forward; the age may change; times and circumstances may change. Some features of our government may change, revolutions in mind and matter may so change the complexion of our corporations that the law governing them may require change also. We are a party of progress, and as events transpire in which the human family are interested, in the finance and the commerce of the world, and in the government of mankind, we shall be ready to meet them with our great fundamental principle, with the great fundamental doctrine of the Democratic party—equal privileges for all, exclusive privileges for none. If events as they transpire, require a change in your general laws, change them so as to affect all alike. If you enlarge them, enlarge them for all. If you restrict them, restrict them for all. It is the only rule by which the Democratic party will submit to be governed. Depart from that great principle but for once, and you are at sea without chart or compass.

Mr. CHAIRMAN, I have made these remarks very unexpectedly and disconnectedly. I trust the Convention will act wisely in this matter, and act with deliberation.

Mr. SETZER. The gentleman from Saint Paul who has just taken his seat, has spoken of the Section as reported by the Committee as if it were not Democratic. The gentleman has taken a rather curious view of the matter, as it seems to me. We are forming a Constitution for a new State, and the question for us to decide is, which is the best plan for us to pursue for the coming State of Minnesota? If the amendment of the gentleman from St. Paul (Mr. GORMAN) which he says he intends shall prevail, is to be adopted by the Convention, it is equivalent to saying we will have no more railroads, no more canals, no more internal improvements or corporations of any kind, for no man will invest money in a corporation which the Legislature may change from year to year. No, sir, incorporate such a provision into your Constitution, and, Democratic though it may be, it will effectually kill off all further progress in internal improvements for the future State.

I hold that, so far as the Federal Government is concerned, and so far as State Governments are concerned, this question comes up in a totally different light. I am for a strict construction of the Federal Government, and while I maintain that the Federal Government should not interfere in the construction of works of internal improvement in the several States and Territories, I say that it is ourd uty as men forming a Constitution for a State Government acting for the welfare of the people of Minnesota, to give them a chance for internal improvements. Is the gentleman from St. Paul prepared to say that the people of Minnesota shall build no more railroads? Is he prepared to say there shall be no canals in the State of Minnesota? Is he prepared to say that no more works of internal improvement shall be carried on? Sir, the amendment which he intends to propose will accomplish that object.

There is no use in saying that Democrats are opposed to such and such things—that old-time Democrats were opposed to the State building railroads, and that old-time Domocrats were opposed to the State building canals. If we want these improvements, corporations must build them, and if we want corporations to build them you must have laws for the creation of such corporations of a kind that will induce capitalists to invest money in them. You must hold out some reasonable inducement to them that the money is not going to be lost.

A great deal has been said about general laws for corporations, which all sounds very nice to talk about, but when you come to put it to practice, it is like putting all mankind into one general bed; it is like making one general suit of clothes to fit every man.

Gentlemen say that in order to make your general law applicable to a certain condition of things to which it would not apply before, in place of resorting to special legislation, let your general law be amended.

Well, sir, make your general law amendment suit each new case as it may arise, and while the change may work very well as regards the new railroad or corporation, it may operate on the old railroad or corporation seriously to injure it. It is certainly unwise for us to say that all things shall conform to a certain measure, and that unless they do conform to that certain measure, nothing else shall be done.

And furthermore, if the Legislature has the right to amend the general laws to suit each individual case, what do your general laws become but special charters? Every railroad and every corporation will want that general law amended for its especial benefit. I hope the amendment will not be adopted.

Mr. FLANDRAU. I do not wish to detain the Committee by protracting this debate to a greater length, but I wish to say a few words in defence of the position I have assumed, and to show why I cannot vote for the amendment of the gentleman from Ramsey (Mr. BECKER.) It seems to have been demonstrated here by a great many speakers in an eloquent and conclusive manner, that there are no objects for which corporations are formed which cannot be covered by general laws. I have been challenged to produce a single instance, and it has been stated that it is impossible to produce a single instance. It is true, sir, that there are very few instances which could not be covered by general laws. And if the position taken by gentlemen here that there are none at all be true, then, according to their own construction, the Legislature could not pass a single special act, because of the restriction which is contained in the Section as reported by the Committee. If their reasoning is correct, the provision as it now stands will effect their object fully, and you will hereafter under this provision have no more special legislation. The provision could not possibly do harm, and if there was no other reason for its remaining than that something may turn up, that would be sufficient. Its existence would certainly be harmless and it might be rendered very useful by future developments—by contingencies that are now unknown.

But, sir, I say that there are instances, and may be instances of vast magnitude which cannot be reached by general law, and in which special legislation may be necessary. I will give one instance: How often do men die and leave bequests of large sums of money for benevolent objects, for the advancement of some par-

ticular branch of science, perhaps, which in consequence of some peculiar ideas of the donor, may be made dependent upon some peculiar condition, harmless in itself, requiring special legislation in order that the public may receive the benefit of the bequest. W know that from the eccentricities of men, such bequests are very often accompanied by some such peculiar condition to perpetuate the peculiar ideas of the person making the bequest.

Now, sir, shall we deprive the community of these donations simply, because, in our judgment, it is improper to pass special acts? Gentlemen may say, pass a general law to cover the case, but the idea seems to me absurd and ridiculous. It is true that a general law might be passed to cover such a case, but for the Legislature to pass such a law would render it an object of ridicule, and we should all regret that such a clause existed in the Constitution.

Now, sir, it seems to me that I have demonstrated conclusively that the existence of this provision in the Constitution must be harmless in any event, and that circumstances may arise which shall make it an object of importance.

Mr. MEEKER. There are a few words which I wish to say to those gentlemen here who are so exceedingly tenacious upon the subject of general laws, and so much opposed to the passage of special acts. That general laws may be passed which shall give the power of creation to almost every species of corporation, there is no doubt. But it seems to me that if all corporations which are to be created in the State of Minnesota, are to be created under general laws, which give to Tom, Dick and Harry the same principles and immunities that men of capital, of experience in public and private affairs are entitled to, the effect will be to render our corporations under our general laws something like those in Illinois and Iowa under their general banking system, where any man with credit enough to buy paper on which to write his name, with $50 in his pocket to make a show, could issue bank paper, which must go into general circulation, and effect the general currency of the country.

Mr. A. E. AMES. To which State does the gentleman refer?

Mr. MEEKER. I refer to the general law of Illinois.

Mr. AMES. I will say to the gentleman, that in Illinois, before any bank can issue paper under the general law, it must deposit securities to the full amount of the paper to be issued, with the Auditor of the State, and the bills must be countersigned by the proper officer of State. They must also keep a certain per cent of gold and silver in bank.

Mr. HOLCOMBE. And besides, the stockholders are individually responsible.

Mr. MEEKER. That individual responsibility is just what I do not like, to regulate the value of currency in this country. I do not like the principle of giving privileges and immunities to everybody—to men of straw—to incorporate themselves under a general law and then sell out for a bonus. No, sir. I think the wishes of meritorious companies for special privileges, merit the attention of the Representatives of the people. It would take a little time, but let them take the time. If you permit corporations to be framed under a general law, by every body who can write their names, you will have corporations multiplied until they will become a curse to the State.

Mr. EMMETT. I am opposed to the amendment to the amendment, as I think a majority of this body are opposed to it. Instead of its being a restrictive provision as was intended by the mover, it will have the effect of giving still larger latitude.

Much has been said in regard to general laws, and the question has been repeatedly asked whether any instances could be cited where general laws would not apply. The gentleman from Washington (Mr. SETZER) has cited Railroads, and said we must give them the right of way; of course the general law would provide that they should not go into operation until the right of way had been granted. Every instance which has been mentioned has been answered until my friend from Nicollet, (Mr. FLANDRAU,) finds that special legislation may be necessary in reference to a certain kind of bequest which he named. Now, sir, it seems to me that the objection he urges in that instance, is answered by the simple assertion, that if the condition of the bequest, or donation, was such as could not be reached under general law—if it was contrary to the policy of the general law, the condition would amount to nothing, and the donation would be good notwithstanding. I have risen to speak of this instance which he has given, because no other gentleman has seen fit to do so. That was the only instance the gentleman could mention, and I do not suppose now the gentlemen himself believes there is any instance which could not be reached by general law.

Mr. BROWN. The gentleman from St. Anthony, who last spoke, (Mr. MEEKER,) has undertaken to confound the banking system under general laws, with that of general corporations. Now, sir, Banking is something with which we have nothing to do for the present. The Report itself commences, "The Committee to whom "was referred the subject of corporations, having no banking privi-

"leges." The subject we have under consideration has no connection whatever with banks, and therefore I cannot see the relevancy of the gentleman's remarks. I do not agree with the gentleman, that corporations have been a curse either in the West or East. I thing they have done more than anything else to develope the Western country.

Mr. MEEKER. I said the influence of corporations had been a curse.

Mr. BROWN. Admitting that the gentleman said the influence of corporations had been a curse, I think he is as much in the wrong there. I hold that corporations—that united capital under the control of different individuals—has done more to open up our country, to develope its resources, and settle up the West, than any other means; and I want to see provision made in our Constitution for general laws for constructing Railroads, for building mills, for manufacturing lumber, and for mannfacturing everything that is necessary for the consumption of the country—for agricultural purposes, if you will. I want to see combinations of capital formed for every useful purpose, without any obstruction whatever. I believe that combinations of capital for building purposes in St. Paul, are just as necessary as for the building of Railroads. I believe such combinations are necessary for every description of improvement, and for every purpose of commerce and navigation. Such combinations have been found to be advantageous everywhere, but especially here in the West. If you will look around and see the immense amount of buildings which surround this Capitol; they have nearly all been placed there by combinations of capital in the form of corporations. Sir, the resources of this whole country have all been discovered, or ascertained, and developed through the medium of corporations formed under general or special laws.

I see no reason which can exist why laws should not be formed under which capital may not be combined by different individuals for all purposes, and I see no reason why that combination cannot be as well effected under general as special laws.

On motion of Mr. SETZER the Committee rose, and the PRESIDENT having resumed the Chair, the Chairman reported progrees and asked leave for the Committee to sit again.

Leave was granted.

MILITIA.

On motion of Mr. FLANDRAU the Convention resolved itself into

Committee of the Whole upon the report of the Committee on the Militia.

Mr. BROWN in the Chair.

The report was taken up and read by sections for consideration.

The first section was read as follows:

SECTION 1. The Militia of this State shall consist of all free, able-bodied male persons, Negroes and Mulattoes excepted, resident in the said State, between the age of twenty-one and forty-five years, except such persons as now are or hereafter may be exempted by the laws of the United States or this State; and they shall be armed, equipped, organized and disciplined in such manner and at such times as may be directed by law. Those who conscientiously scruple to bear arms, shall not be compelled to do so, but shall pay an equivalent for personal service.

Mr. MEEKER. I would like to enquire if some gentleman on this Committee, what persons the laws of the United States could possibly exempt from discharging the duty of militiamen?

Nr. FLANDRAU. Postmasters, and the various United States officers.

Mr. M. E. AMES. I have an amendment to propose to this section, simply for the purpose of improving the language. My object is the same as that of the Committee. I move to insert the word "white" after the word "free" at the end of the first line, and then to strike out the words following, "Negroes and Mulattoes excepted."

Mr. SETZER. I ask the gentleman whether he would exclude the Indian half breeds?

Mr. A. E. AMES. I suppose they would legally be included under the word "white."

Mr. FLANDRAU. I think not. Such persons certainly ought to be allowed to perform military duty if they desire it.

The amendment was adopted.

Mr. FLANDRAU. I wish some one who voted with the majority would move a reconsideration of the vote by which that amendment was adopted. The effect of it will certainly be to exclude from military duty, a large class of the persons living on the frontiers.

Mr. MEEKER. Who are they?

Mr. FLANDRAU. They are those persons having Indian blood. It would certainly disqualify them from military duty.

Mr. M. E. AMES. The gentleman has certainly made an entire mistake in regard to the intention of the amendment, and in my opinion, in regard to its effect. I hold that those of mixed blood, and especially where the white predominates, come literally within the letter and the spirit of this provision as it now stands amended.

The object of the amendment and the only object, as I stated in the outset, was simly to abreviate the language and make it read a little more natural. However, as I said, I have no intention whatever to exclude any persons of mixed or Indian blood, and if there is any difference of opinion relative to the section as it now stands, I will myself submit the motion to reconsider, and will very cheerfully vote for any change which may be necessary.

Mr. SIBLEY. I think the language of the section as it originally stood in the section, was entirely plainand catagorical, much more so than it is as amended. The exceptions are expressly made and the language admits of no doubt. With the amendment it leaves the construction in doubt, which ought to be avoided in framing a Constitution whenever it can be avoided, and especially upon this subject. If the section is permitted to remain as it now stands, in the opinion of many persons, it will exclude a large class of our most valuable citizens, and mark them, which I think the Convention ought to be very careful not to do.

Mr. MEEKER. In voting for the amendment of the gentleman from St. Paul, I had no idea the language was susceptible of the construction which I see now may be put upon it. It would exclude many very worthy citizens, and I hope it will be reconsidered.

Mr. M. E. AMES. As this section was reported from the Committee, it would make the militia of our future State a rather large body of men, for while it excludes Negroes and Mulattoes, it would not exclude any of the Sioux, Winnebagoes or Chippewas. The "phraseology is: "The Militia of this State shall consist of all free, "able-bodied male persons, Negroes and Mulattoes excepted, be-"tween the ages of twenty-five and forty-five years." It makes no other distinctions, and as I suppose the Indians are free, able-bodied men, it would make our militia rather too extensive.

The motion to reconsider was agreed to and the question recurred upon the amendment.

Mr. BECKER. I move to amend the section by striking it out and inserting the following in lieu thereof:

SECTION 1. The Militia shall be composed of all able-bodied male citizens, between the ages of twenty-one and forty-five years, except such as are exempted by the laws of the United States; but all such citizens who from scruples of conscience, may be averse to bearing arms, shall be excused therefrom, upon such conditions as shall be specified by law.

Mr. M. E. AMES. I am willing to accept the substitute in lieu of my amendment.

Mr. SIBLEY. I do not like the phraseology of that amendment. It provides only for including qualified voters, which would exclude

all unnaturalized citizens amongst us. Now it seems to me, that if these men come among us and enjoy the protection of our laws, they ought not to be exempted from the performance of military duty. I hope the gentleman will modify his amendment in some way to meet this objection.

Mr. BECKER. I am in favor of the amendment as it is. I do not think it would be good policy to call upon those who are not citizens of the State, to perform Military duty. I think the legal citizens of the State had better depend upon themselves for their own protection, and not embody into the Militia persons who are not citizens.

Mr. GORMAN. I am in favor of putting into the section, the language, "free white male inhabitants." The Organic Act of the Territory contains the expression, "free white male inhabitants "not under the age of twenty-one years." The use of that language would do away with the objections raised by the gentleman from Dakota. Now sir, as I understand, under the decisions of our courts, the expression, "free white male citizens," has been taken not to exclude such persons as are made citizens of the State by the State laws. It has been so told over and over again. It has never been pretended that the use of this language, excludes any one who is regarded as a citizen by the laws of the State. By the various decisions of the Supreme Court of the United States, the African has been held not to be a citizen of the United States, not only recently, but at various times, and under various circumstances which are referred to in TANEY'S recent decision upon the subject.

My reasons for preferring this language are these, and I think they will strike the gentleman who offered this amendment favorably. If you use the expression, "every able-bodied male person," or "every able-bodied male inhabitant," or "every able bodied "male citizen," you will include the very persons you want to exclude. But when the question comes up upon the right of suffrage, what language are you going to employ there? Every member of this Convention is going to vote for a provision which shall give the right of suffrage and of holding office, to every free white male citizen over the age of twenty-one years. You should require Military duty then from all persons whom you make citizens. But our Courts have held over and over again, that persons of Indian mixed blood are citizens. The Congress ot the United States has so decided, and Congress has in some instances admitted full blood Indians to the right of citizenship, thus establishing the fact that

there is nothing in the Constitution of the United States, conflicting with the rights of citizenship upon the part of the Indians.

Mr. SIBLEY. I have already stated that my intention in the formation of this Constitution so far as my vote is concerned, is to make everything plain, categorical and free from doubt as possible. I think the gentleman who has just taken his seat is mistaken in one point. He states that the decision of the Courts have invariably been that Indians of mixed white blood are citizens of the United States. Why, sir, under the very terms of the Organic Law, a person must be a white man to be a citizen. But the gentleman says the Courts have invariably decided that these mixed bloods are white men. Now, sir, with all due respect to the gentleman, I know an instance to the contrary. In a case which came before one of the Judges of the Supreme Court of Wisconsin, it was held that a person of mixed blood was not a white man unless the white predominated, and that the person followed the blood of the mother. I know a case in which an Indian was taken and brought before Judge DUNN, at Prairie du Chien, for the murder of a half-breed, and he was acquitted by the Jury. Judge DUNN charged the Jury that inasmuch as the mother of the murdered man was a pure Indian woman, the Court had no cognizance of the case. Now, sir, what we want to do, is to put this Section in such language as will not leave a doubt on the subject. I think the phraseology used by the Committee in the Report is much more direct, and I shall vote against all amendment which makes the language admit of a misconstruction. I hope the amendment as it now stands will be voted down.

Mr. MEEKER. I fully agree with the gentleman from Dakota, that everything which we put into the Constitution, should be made as explicit as possible, but I cannot agree with the gentleman from St. Paul, (Mr. GORMAN,) that because the Courts may decide a man to be a citizen, that he is therefore *ipso facto* a white man. I think if the gentleman who offered the amendment, would change the language so as to make it read "all able-bodied inhabitants pos-"sessing the qualifications of legal voters by the laws of the State "of Minnesota," that would meet the point.

Mr. BECKER. I will accept the modification, and offer my substitute in such form that it will read :

SECTION 1. The Militia shall be composed of all able-bodied male inhabitants possessing the qualifications of voters, between the ages of twenty-one and forty-five years, except such as are exempted by the laws of the United States ; but all such citizens who, from scruples of conscience, may be averse to bearing arms shall be excused therefrom, upon such conditions as shall be specified by law.

Mr. M. E. AMES. I offered the original amendment, and then

accepted a substitute which my colleague has offered. Since my accepting it, however, that substitute has been remodelled and altered by the insertion of an additional qualification, that the persons shall be legal voters. In its present shape, I shall not accept the amendment, for the simple reason that I shall vote against it, and hope the amendment will not prevail.

Mr. CHAIRMAN, the more I have reflected upon the subject, and from the discussion which has taken taken place upon it, the more I am satisfied the original amendment as offered by me, ought to prevail. As has been elucidated by my colleague, the same phraseology must be used in different portions of the Constitution, including this word "white," and it cannot anywhere be used with more appropriateness than it can here. It has been shown that the decisions of the Courts have not, by any means, been uniform in their construction of the word "white," as applied to persons of mixed white and Indian blood. The word must be construed by the Constitution itself to include these persons, for it will almost necessarily have to be used in more than one portion of the Constitution. I think there is no doubt by the laws as they exist, that these persons are included under the word "white," but we should by an express provision, make that construction certain.

Mr. FLANDRAU. It seems to me that gentlemen are entirely wrong in their construction of that section. We are told that these persons of mixed blood are regarded as white men under our laws, because they enjoy certain of the privileges of the white men. Now, sir, that is a mistake. The Organic Act of the Territory, by an express provision, includes this class of persons. It provides, that nothing in this Act contained shall be construed to deprive persons of mixed white and Indian blood who have adopted the customs of civilization from enjoying these various privileges. But for that exception, the use of the word "white" would cut them off. Now, sir, it seems to me that it is a plain, common-sense view of the subject that if you use the word "white," and except every class of persons who are not included under it, you will exclude every person who is not white; you would cut off the red and black men, and the mixed bloods of both races. There is no doubt at all that if you adopt that criterion you will exclude every man who has not pure white blood running in his veins. I want it to be distinctly understood that these Indian half-breeds are to be admitted. The greatest portion of the fighting upon the part of the Territory lying on the frontier has been done by the half-breeds. These men ought not to be excluded from the militia. You ought to have no doubt upon the subject; and if this amendment of the

gentleman from Ramsey (Mr. AMES) is adopted, you will leave the whole question open for construction. I want the matter left so that there shall be no possible doubt on the subject.

Mr. EMMETT. I hope the amendment to the amendment will prevail, for the reason that I like the language employed in it much better than the use of the word "white." It has been gravely decided by the Supreme Court of Ohio that the word excluded those who had as much black blood as white in their veins; that it would exclude the mulatto, but would include the quadroon. Now, I am willing that the word "white" snall be inserted in the proper place, and that it shall be made to include persons of mixed Indian blood. I doubt whether there is a man on this floor who would exclude them from that privilege. But I want to exclude mulattoes; I want to exclude even those with one-eighth African blood. I want to go the whole figure upon that subject, and the time to do it is when we are fixing the qualifications for voters. It is sufficient in this place, however, to use simply the record "qualified voters." I am willing that the militia shall include all able-bodied men who are qualified voters in the State, and that will cover the whole subject. I hope, therefore, that the amendment to the amendment will prevail, for the reason that there is some difference as to the construction of that word "white."

Mr. FLANDRAU. I think that amendment is liable to some objections. Why should the able-bodied men between the ages of eighteen and twenty-one not be included in the militia as well as the legal voters?

Mr. EMMETT. There is a question, it seems to me, whether young men between the ages of eighteen and twenty-one who owe allegiance to their parents or guardians should be required to perform military duty. I think it is requiring too much of those to whom they owe service. I do not think they should be compelled to be included in the militia until they are their own masters.

Mr. BAASEN. The exclusion of these Indian half-breeds from military duty would cut off half the settlers on the frontiers, where the military is more likely to be used than anywhere else. I think we should make ourselves perfectly certain that we have included them.

Mr. CURTIS. I would suggest to the gentleman who offered the substitute that he modify the latter clause so as to excuse persons who have scruples of conscience from bearing arms only in time of peace.

Mr. BECKER. I have said they may be excused upon such con-

ditions as may be prescribed by law, which covers the whole ground.

The substitute was not agreed to.

The amendment was not agreed to.

On motion of Mr. BECKER, the Committee rose, reported progress to the Convention, and asked leave to sit again.

Leave was granted.

On motion of Mr. MEEKER, at one o'clock the Convention adjourned.

SEVENTEENTH DAY.

SATURDAY, August 1, 1857.

The Convention met at 10 o'clock, A. M.

The Journal of yesterday was read and approved.

REPORTS OF COMMITTEES.

Mr. WARNER presented a report from the Committee appointed to contract for the postage of members, which on motion of Mr. SETZER, was recommended to the same Committee with instructions to strike out the recommendation reported.

Mr. M. E. AMES, from the Committee on the Distribution of the Powers of Government, submitted a report which was laid on the table.

Mr. WARNER from the Committee on Postage reported back the document which had just been reported to that Committee as follows:

We, the undersigned, your Committee, to whom was referred the subject of postage would respectfully report:

That said Committee have conferred with the Postmaster of this city, Mr. C. S. Cave, and have inqnired of him what arrangement could be made with reference to the postage of members of this Convention.

Your Committee informed him that no other assurance could be given if he should permit letters or papers to be sent and received by members of this Convention free of charge, than that he would be paid out of the funds raised to defray the expenses of this Convention.

In reply to which proposition he stated that it would be impossible for him to comply with the wishes of your Committee, or to make such an arrangement, but that he was ready to furnish stamps and envelopes, upon receiving payment for the same.

All of which is respectfully submitted.

FRANK WARNER,
FRANCIS BAASEN,
JAMES McFETRIDGE, } Committee.

On motion of Mr. WARNER the report was accepted and the Committee discharged from further duty.

PETITION FOR THE EXPULSION OF MEMBERS.

Mr. GORMAN. I hold in my hand a petition from divers citizens of the counties of Winona and Wabashaw, praying that this Convention will eject from their seats Messrs. BALCOMBE, WILSON, BALDWIN, KEMP, DOOLEY, and COLE. I ask that it may be read and referred to the Committee on Credentials.

The petition was read as follows:

TO THE HONORABLE OFFICERS AND MEMBERS OF THE CONSTITUTIONAL CONVENTION OF THE TERRITORY OF MINNESOTA, NOW IN SESSION IN SAINT PAUL.

The undersigned, citizens and electors of the District composed of the counties of Winona and Wabashaw, would respectfully represent to your honorable body that the Delegates from this District now claiming seats in the Convention, were not legally elected as members of said Constitution, according to the construction of the law by the Republican party, requiring a designation for Council and House of Representatives.

Your petitioners, believing that, if the absence of such designation was sufficient to reject the Democratic delegates from Hennepin county, it must also suffice to reject the Republican delegates from this District; and would therefore humbly pray that your honorable body enquire into the legality of the election under which Messrs. Balcombe, Wilson, Baldwin, Kemp, Dooley, and Cole, now claim seats in said Convention; and if your honorable body find that these members were not legally elected as required by law, it is the prayer of your petitioners that they may be rejected from seats in your Convention. And your petitioners, as in duty bound, will ever pray, &c.

ANTHONY DYER,	BENJ. CRIST,
JOHN B. DOUNER,	JOHN HITT,
H. J. SANDERSON,	PHILO STONE,
W. W. WRIGHT,	R. F. MORRIS,
GEO. HARNCAME,	J. DUFOUR,
M. B. LUTZ,	E. W. HOWE,
CHARLES WEBB.	

On motion of Mr. GORMAN, the Petition was referred to the Committee on Credentials.

CORPORATIONS OTHER THAN BANKS.

On motion of Mr. KINGSBURY, the Convention resolved itself into Committee of the Whole on the report of the Committee on Corporations having no Banking Privileges, Mr. M. E. AMES in the Chair.

The CHAIRMAN stated the question pending to be on the amendment of the gentleman from Benton (Mr. STURGIS) to the amendment of the gentleman from Ramsey, (Mr. BECKER,) in the second Section. The amendment to the amendment was reported as follows:

Strike out the paragraph after the words "municipal purposes," and add in lieu thereof the words "railroads and such other public improvements as may be of general interest to the State."

Mr. SHERBURNE. Mr. Chairman, the subject of Corporations is one well worth the attention of this Convention, and has elicited the attention of the Conventions which have formed and revised all the State Governments of this Republic. In the course of the experience of the Government a change has undergone in the minds of the people. That change does not apply strictly to one party or to another party, but the minds of the people have changed on the subject of corporations.

Formerly, all corporations derived their powers from specific acts of legislation. But the question has for a long time been mooted whether that was strictly in accordance with the principles of Republican government or with the equal rights of the people. I believe the general doctrine now established as well by the Democratic party as by the party opposed to us, is that corporate powers should be derived from general laws. I am aware that different individuals still hold different opinions. I am aware that it is a subject of discussion even at this day. Every gentleman, whether a member of this Convention or otherwise, is aware of the difficulties, attending this subject whether he takes one horn or the other of the dilemma. There is a difficulty undoubtedly, in framing general laws to meet every case, that shall be so guarded and so restricted that on the one side the rights of the public shall not be infringed on, and on the other, that sufficient encouragement shall be held out to corporate bodies formed for the prosecution of public enterprises. It is a difficult road for us to travel, and for the Legislature to continue, but inasmuch as we have some precedents in which the plan of general legislation has been tried and found to work well, it is not precisely an experiment on our part. I do not deem the subject of so much consequence as to divide or trouble us, but still I am in favor, myself, of adopting a principle into our Constitution which shall permit all people to combine with the same corporate privileges. I would have one equal with another, so far as the provisions we shall make are concerned. I am in favor of giving to the Legislature no power to grant to one body or set of men, any special privileges to which all persons shall not be equally entitled under general law.

But, Mr. CHAIRMAN, I rose more especially to speak to the present proposition as I find it before this Committee. I am opposed to the whole of it, as it now stands. A motion has been made by my colleague from Ramsey, (Mr. BECKER,) to strike out that clause of the original section which gives the Legislature the power, under

certain circumstances, to pass special acts. I am in favor of that so far as it goes, but when that clause is stricken out, it will be as imperfect as it was before. There must be another amendment, or the mere striking out of the words proposed will accomplish no good purpose whatever; because, if we are to have corporations under general laws, there must be a power in the Legislature to change those general laws, and to add to them at each of its sessions. It was well said, yesterday, that new enterprises may spring up, new principles may be developed. Air balloons which were mentioned, may come into use, for we hear a great deal of them now. We know that to keep pace with the improvements of the age, it becomes necessary that new principles should be adopted in legislation, and we should make provision, that the hands of the Legislature in future, shall not be tied. I think, therefore, that each year, at each session, the Legislature shall have the power of changing the laws which govern corporations, and that the same laws shall apply to all the people equally.

I am now speaking particularly of the original amendment, for I do not regard the amendment to the amendment of much importance. I say, therefore, strike out the words "and in cases when the ob-"jects of the corporation cannot be attained under general law." The section will then stand, leaving the Legislature without power to pass special laws, and without the power of changing their general laws, within, perhaps, a period of ten years. Now then, the question arises, when new wants arise, when necessities appear for changes in the general laws, what resource will be left? None but for the people to call another Convention for the revision of the Constitution. I think it is proper and necessary that the Legislature should have the power at each successive session to change their laws and adapt them to the new wants of the people as they may arise.

The object of any Constitutional provision on this subject is to guide and restrain future legislation. We are here without that persuasive influence which is said to be brought to bear upon members of the Legislature. We are here with no other purpose than our sense of what is right and what is wrong and what will be the best for the future of our State. No man will apply to us here for banks, none for any corporation or party whatever. There is nothing to induce any one to act upon this Convention. Not so, however, during the meeting of the Legislature. Men are here from every portion of the Territory, representing the interests of every description of company and interest. Members are applied to by their friends, by their constituents, by the men who elected

them. It is said there are men applied to by means of money. They are applied to in all ways and by the means that are used, measures are made to pass, which, very few of the members would, in their sober senses, vote for. We have none of these pressures here; we can act calmly and coolly upon the matter and can give such direction to the future Legislatures, as we may think in our best judgment to be proper. The people will judge whether we have acted wisely.

Now, sir, I am opposed to this Section as it stands, taking it as a whole, because it does not furnish any guide for future legislation at all. I undertake to say the result of this whole provision is a cypher, is a nullity. You might as well write an "0" in its place, as to adopt this proposition as it is proposed. What is it?

Corporations may be formed under general laws, and shall not be created under special act, except for municipal purposes, and in cases where the objects cannot be attained under general laws.

Why, sir, suppose there should be no general laws upon the Statute Books, or suppose the Legislature should repeal them. We are looking to future Legislatures, which may be over-persuaded to do wrong actions, which may be actuated from erroneous motives: what is there in this Article to hold them in check? Suppose the Legislature shall, instead of going on and passing general laws, cover the whole Territory over with new corporations, with extraordinary powers and privileges, what remedy will there be? Suppose they pass general laws upon the subject of Banks and none upon the subject of other corporations, it might not be exactly within the spirit of the provision the gentleman has reported, but it would not be in violation of its letter, and what remedy should we have? I am not prepared, as I proposed to do, to offer anything as a substitute. My colleague from Ramsey, (Mr. GORMAN,) proposed a substitute which is much preferable to anything before us. I am satisfied that by following out the effect of this provision, the Committee themselves who reported it, will be satisfied that it will not answer the purpose for which it was intended.

Mr. SETZER. I have but a word to say. There is no reason why we should not act understandingly upon the matter, with our eyes open. If we are satisfied that the people of this Territory wish no more internal improvements, then it may be well to adopt the proposed amendment, but if we wish to have any more railroads, canals, or other internal improvements, we certainly shall not get them with the powers of the Legislature restricted as it is proposed to restrict them, for no capitalist is going to invest money in corporations under general laws with such regulations for repeal and amendment as you propose to make.

Mr. SHERBURNE. Gentlemen do not seem to understand the effect of general laws. Why, sir, if men come to the Legislature and ask to have a law passed by which they can incorporate a company with certain privileges and immunities, it is just as easy to pass a general law which shall confer all the privileges that could be given by a special law and at the same time, make the law applicable to all other cases coming within the same class. It can be done. Experience in other States shows that it has been done and is being continually done—that general laws may be passed to meet every emergency that may be met by a special law; I for one, much prefer that it should be done by general law, and that the Legislature should have power conferred upon them only to grant charters under general laws. All experience shows that it is not safe to trust these matters unrestrained in the hands of the Legislature. Influences are brought to bear npon the members, they do not know how. The men who ask the privileges are their friends or their constituents. These relations of friendship will control some members. Influences pecuniary in their nature will control others, and measures which ought not to pass, will be carried through. It has been so in this Territorory, it has been so in other States, and all experience shows that it will be so. This principle of general legislation is being carried out in the Eastern States, even in the old fogy States as they are called, and I am satisfied it is the practice which we ought to adopt.

Mr. MEEKER. I really feel a little delicacy in troubling the Convention with any remarks on this subject, but it is one of so vital interest, when I look upon the effect it is inevitably to have in developing the resources of the State, that I cannot refrain from adding one remark more. I do not say that the section as originally reported, is perfect. There should be some amendments in the latter clause of the section, which, if no one else offers, I propose to offer myself.

Gentlemen have been speaking against this second section, and it has seemed to me the entire effort has been to pull down without any effort to re-construct what all admit to be necessary, to some extent. "Corporations may be formed under general laws, "but shall not be created by special acts except for municipal pur- "poses, and in cases where the objects of the corporation cannot be "attained under general laws." Now, sir, the gentleman from Ramsey supposes what I think a supposable case, that the Legislature, under this section, may fail altogether to pass any general laws upon the subject of internal improvements, in respect to which, other States have passed general laws. He supposes, also, that

the Legislature may fail to pass any general laws upon the subject of banks, upon which other States, too, have general laws; and, therefore, would be at liberty to pass special acts in each case creating corporations. Sir, I cannot believe that Western as we are, and new as we are, and going ahead as we are, our Legislators are going to be so lost to a sense of duty and propriety. I cannot believe that they will not have a spark of honesty, or regard to the prosperity or wants of this State. No sir. One of the first acts of a Legislature called under the new State, I have no doubt, would be to pass a general law upon the subject of internal improvements, and another upon the subject of banks.

But, sir, there are a thousand instances, and the very fact that gentlemen could not enumerate them here this morning, proves the necessity of the exceptions which are contained in that second section. Why, sir, we have Colleges, Universities, Churches—and need them too—and there is your Historical Society. You have salt mines and copper mines, and various interests which could not be legislated for under general laws, as well as by particular laws, embracing particular objects. My friend here on my left, (Mr. BECKER,) stands ready to offer another amendment. I hate to anticipate him, but the effect is really to make all laws for the creation of corporations for internal improvements, or anything else, a mere cipher. You might, as the gentleman from St. Paul, (Mr. SHERBURNE,) says, just as well insert a cipher in the place of the whole section at once. A general law authorizing persons to associate together for internal improvement, and to carry out various enterprises under rules and regulations which it is in the power of the Legislature, at any moment, to modify or repeal, would have the effect to prevent men from forming corporations at all.

The latter part of this section as it stands, however, I should like to see amended. It now reads,

All general laws and special acts passed in pursuance of this section, shall be subject to amendment or repeal by the Legislative Assembly, after a certain specified time, and such law and such time shall not exceed the time of ten years, unless the corporation be formed for the construction of a Railway or Canal, when the Legislature may, in its discretion, grant additional time.

Mr. SETZER. I call the gentleman to order; he is not discussing the question before the House.

Mr. MEEKER. I do not intend to trouble the Convention again on this subject, and therefore, I am desirous of saying what I have to say. There are other internal improvements beside Railways and Canals, which should be included in the exception contained in the latter clause of the section.

Mr. GORMAN. It really does seem strange to me, that some of my friends here should not be able to see that there are no advantages resulting to corporations from special laws, which cannot be equally well attained under general laws. Gentlemen are not able to see how somethings which are put into special laws could ever be covered by general laws. Why is it that gentlemen cannot see that general laws can be formed to cover every case which special laws can possibly reach? The intention is to have our general laws so framed as to cover every possible contingency. If in the developments that will take place, circumstances shall make it necessary to give to a particular company additional powers or privileges, why give them to all. If you want to enlarge the privileges, franchises and immunities for internal improvement company, why enlarge it in your general law and give others the advantage of it. If you want to restrain or restrict any company, restrict all alike. There can be no difficulty in making provisions for associations, whether for internal improvements or banks, whether for railroads, canals or any other internal improvement, whether it be a corporation for a Medical Society, for a University, for general educational purposes, for a Church, for navigation purposes, for Historical Societies, or for whatever purpose you desire to associate capital. It seems to me it can be done as well under general as special laws.

I must be pardoned for replying to a single remark of my friend from Washington county, the Chairman of this Committee, (Mr. SETZER.) He says if we wish to stop the progress of the country in internal improvements, if we wish to have no more railroads, &c., adopt the general law principle. Why, sir, surely it is not the design to stop the progress of any of these improvements. In looking into the provisions made in three of the States which have recently remodeled their Constitutions, I find they have all adopted precisely the principle which I proposed yesterday to adopt. They have provided that corporations shall be formed under general laws, and that the stockholders shall each be liable to the amount of his stock. That is taking the medium ground which has been taken in Ohio, Iowa, and Wisconsin. Yet, sir, in these States, the progress of internal improvements is certainly keeping pace with the progress of the age.

With these facts before us, is it possible that my friend will still insist that the adoption of such a provision into our Constitution is to retard the internal improvements of the State we are about to bring into existence? The gentleman means to say, and means to impress upon the members of this Convention, that men

of means would not invest their capital in companies where the stockholders were individually liable for the amount of stock taken. Sir, they are individually liable in old Massachusetts, and they are individually liable in old Virginia, the mother of the North and the mother of the South. They are individually liable, so far as I know, in every State which has framed or remodeled her Constitution within the last fifteen years, to the amount of their stock. And it is right that they should be so individually liable for the debts they contract. There is no improper or unnecessary restriction upon capital therefore, in that respect, and if you will pardon me, I will show you why capital loves to invest in just such corporations. When you see corporations desiring to leave that out, it is almost always the case that there is really very little capital invested. The thing is gotten up purely as a matter of speculation, and of course the stockholders do not like to become individually responsible. But when there is something substantial about a corporation, the stockholders will not object to a mutual responsibility for the debts of the concern to the amount of the stock taken.

In the several Western States where this policy has been engrafted into their general laws, it has not had the effect of arresting the progress of internal improvements, and the policy has become a settled one in the public mind. Otherwise, there is no security for that great class of people to which the country has to appeal in case of emergency. The great foundation for popular government lies in that class of people which produces something which was never produced before. And it is necessary for the prosperity of our government that the class of people which are less able to stand the effects of the various changes in the financial world should be protected. But whenever you protect them, it gives confidence to capital because it gives confidence to labor and invariably produces a better state of things in the commercial world.

I need not say, that I apprehend there will be no difficulty in striking out these words, "and in cases where the objects of the "corporation cannot be attained under general laws." I trust that we shall send forth to the world, a Constitution based upon nothing but the eternal truths of freedom and political economy. I trust we shall leave out every word of legislation, where it can be done consistent with keeping progress with the age. No word ought to be used that can safely be left out of that Constitution. No dictum ought to be put in there that can be safely left out. The great fundamental principles of government should be laid

down. What you desire to forbid on the part of your Legislatures, and what the people desire to forbid to their representatives, what they are willing to give up for the public good, we should forbid. But sir, let us make no provision for one class of the people at the expense of another class. That is Democratic doctrine, and the Democrats of the country will sustain us in it. Let us provide general laws for all, and special laws giving exclusive privileges to none.

Mr. SETZER. As the gentleman from St. Paul alluded to me, I will merely say that I was not understood, if he understood me to express the opinion that Capitalists would not invest their money under general laws.

Mr. GORMAN. Under general laws which made the stockholders individually liable for the debts of the Corporation.

Mr. SETZER. I did not say that either. I said that under laws which could be amended or repealed from year to year, capital would not be invested. It was intimated by more than one gentleman yesterday, that these laws should so be framed as to be amended or repealed from year to year. I said that with such a provision, capital would not be invested because there would be no security that the very next year, the law under which the Charter was formed would not be repealed, or so amended as to make the Charter worthless.

The gentleman further says, that all cases which can be covered by special acts can as well be included under general law. Now, sir, I do not know but I am wrong, but I am convinced that they cannot. I am not well acquainted with the larger improvements, such as railroads and canals, having always lived upon the frontiers, but I am somewhat acquainted with the class of improvements which have been carried on in our frontier lumbering country upon the rivers, such as ferries and booms. Now, sir, the gentleman will agree with me that it is necessary in chartering these boom companies to fix a certain rate of toll. But in one locality, where the water was slack, the outlay required would be much less than in another locality: and, for the benefit of lumbermen, it would require that the rate of toll fixed should not be as large. Now, if these companies are to be organized under general law, it must be done by a single enactment—no part must be left for special legislation, and I do not see how it would be possible to frame a general law which should so regulate such charters as to do justice to all.

Mr. MURRAY. I move that the Committee rise and report this article back to the Convention with the recommendation that it be

committed to a special committee with instructions to examine the subject, and if there are subjects which cannot be included under general law let them be expressly mentioned. My colleague here yesterday expressed the opinion that there were no instances where the objects could not be attained by general law. I am unable to determine whether such is the fact or not, but if there are such cases I want them specified in this article. This is too important a matter to be disposed of here in this way by amendments drawn up at our desks. I for one am not willing to vote for giving the Legislature power to grant special privileges unless there is some necessity for it. I therefore hope the matter will be referred to a select committee to examine the subject.

Mr. SHERBURNE. If the gentleman wishes to have the article recommitted I would inquire, why not send it back to the same committee?

Mr. MURRAY. Because all the members of that committee have expressed themselves in favor of the article as reported by them, and they would report it back immediately without amendment or suggestion. I do not wish to be upon such a committee, but I think it would be better to refer it to a select committee, on which I should be glad to see my colleagues, Mr. BECKER and Judge SHERBURNE, and several other gentlemen I could name, so that we may have the benefit of some new suggestions on the subject.

Mr. SIBLEY. It strikes me that the gentleman's motion is not very courteous to the standing committee upon this subject. If he is unwilling that that committee should have the matter re-referred to them let us continue the debate upon it and dispose of it here in committee of the whole. I shall certainly vote against any motion to raise a select committee upon this article. The standing committee upon the subject was appointed with especial reference to its consideration. They have considered it, and have brought in a report here which deserves to be thoroughly canvassed before we decide not to adopt it.

Mr. MURRAY. I certainly would not be discourteous to that committee, but their Chairman insists that the article as reported by them is correct. Other members of the committee are of the same opinion. Now, sir, in my opinion, that report is not such a one as we should adopt: hence, I made the motion that the subject be referred to a new committee. Let us see if they cannot arrive at some satisfactory conclusion.

Mr. SIBLEY. I did not intend to favor the reference of this subject to any committee. We have the matter now fairly before us. If it undergoes examination before any other committee we shall

have the debate all to go over again in this committee of the whole, and I think it would be much better to go on and dispose of the subject.

Mr. BROWN. I think this subject is now before the proper committee. It has to be discussed before this Convention at some time, and I can see no necessity or propriety in re-committing it to the standing committee upon the subject, or in referring it to any other committee. I think the subject is now fairly before us, and it can be as well disposed of now as ten days hence, after it has undergone the examination of a committee or the examination of every three persons in the Convention.

Mr. MURRAY. I will withdraw the motion for the present.

The amendment offered by Mr. STURGIS was not agreed to.

The question then recurred upon the amendment of Mr. BECKER.

Mr. KINGSBURY moved to amend the amendment by striking out all after the word "purposes" and inserting in lieu thereof the words:

The General Assembly shall have power to amend or repeal all laws for the organization or creation of corporations granting special or exclusive privileges or immunities, by a majority of both branches of the General Assembly; and no exclusive privileges, except as in this Article provided, shall over be granted.

Which motion was decided in the negative.

Mr. WAIT moved to amend the first amendment by striking out all after the word "laws" in the first line and adding in lieu thereof the word "only."

Which motion was decided in the negative.

The question recurring on Mr. BECKER'S amendment, it was decided in the affirmative.

Mr. HOLCOMBE offered the following substitute for the second section:

The Legislature shall provide for all corporations by general laws, and where the objects cannot be attained by the existing general laws they shall be so amended that they can; but the Legislature shall not pass any special law authorizing corporations.

Mr. HOLCOMBE. In the remarks to which I have listened this morning one gentleman supposes a case in which, after the adoption of this Constitution with this section proposed by the Committee, the Legislature should pass no general law, he wants to know what remedy there would be: for the section does not make it imperative upon them to pass general laws; it only says they *may* pass them. I propose therefore to make it obligatory upon the Legislature to pass general laws. The substitute I have offered says in so many words, The Legislature *shall* pass general laws.

I have offered this substitute believing that it may meet the diffi-

culties which we have been discussing for the last two days, for which no gentleman has presented a remedy. All, or nearly all, have admitted that cases may possibly arise where special legislation would be proper. There must be a remedy. These cases may be reached by special legislation: or they may be reached by adapting the general law to them. All have agreed that there must be a dividing line somewhere. Gentlemen are not certain that if we permit the Legislature to pass special laws at all the public will not be able to get corporations in any other way. Now, sir, I want provision made which shall invite capital from every part of the world; and, as there is such a Democratic objection to the passage of special laws under any circumstances, it strikes me that the substitute I have offered will just meet the views of the Convention. It is very simple. There is the distinction between it and the section as it is amended that it makes it obligatory upon the Legislature to pass general laws for these purposes. If the laws when first passed do not meet every case they can be amended, and we can keep amending them until in the course of time they will be sufficient to meet every case.

Mr. BECKER offered the following amendment to the substitute:

SEC. 2. Corporations shall be formed under general law, and shall not be created by special act, except for muncipal purposes.

All laws passed pursuant to this section may be altered, amended or repealed.

Which amendment prevailed.

The question recurring on the substitute as amended, it was decided in the negative.

Mr. BROWN. Having been somewhat extensively engaged in special legislation heretofore, I will endeavor not to take a very conspicuous part in this debate; but as the business before us is the formation of rules for the government of the Legislature of the future State, in which I shall in all probability be as much engaged as I have been heretofore in our Territorial Legislature, I beg leave to offer a substitute for the Section as it now stands. I move to strike out the section as amended, and to insert:

SEC. 2. No corporations, except for municipal purposes, shall be formed under special acts.

I think that will cover the whole ground. It leaves it entirely with the Legislature whether they shall pass a general act or not; it leaves it to the Legislature, and to the people through the Legislature to say by the passage of, or the refusal to pass general laws, whether it is their will that corporations shall exist or not. If the people wish that corporations shall exist they will send representatives here who will pass proper laws.

Mr. FLANDRAU. If these gentlemen in the Convention who are afraid that the Legislature shall pass special laws upon any subject—these sticklers for general laws, are serious in their professions—why not strike out those words, "except for muncipal "purposes." Why not go the whole figure and tie up the hands of the Legislature, and give us corporations for muncipal purposes, railroads, and improvements of every kind under general laws, or not at all?

Now, sir, I am willing to trust the Legislature, with the restrictions originally introduced by the Committee. There has been a vast amount of ingenuity expended in attempting to improve the language of that section, and it has been a signal failure. It has not been improved at all. That section as reported, stands now, as a temperate view of the question; it presents an intermediate point between the two extremes, and leaves the Legislature in a position where they are expressly prohibited from the passage of any special act relative to corporations, when the object can be attained under general law. It is undoubtedly the Democratic view of the subject, where the object can be attained by general law for every one to stand upon the same basis, and enjoy the same rights and privileges. But gentlemen seem to admit by making this exception, that special legislation may be necessary for municipal purposes. Now, sir, I think it is no more necessary that there should be special acts for these than other purposes. General laws may be passed for the incorporation of villages. Such laws have been passed and villages have been incorporated under them. Such acts may be found upon our statute books; but it is nevertheless true that in relation to towns, cities and villages, it is often absolutely necessary that there should be special legislation in order to do justice to the inhabitants of those towns, cities and villages, just as it is in reference to any other species of corporations—just as the gentleman from Washington remarked about the tolls for booms.

But, sir, according to the arguments which have all along been used here, I say, why should there be special legislation for St. Paul and not for Traverse des Sioux? Simply because the wants of the two towns are not the same, and the same charters are not required.

Mr. CHAIRMAN, does not the same principle pervade every class of corporations? It may be true, and is true, that for large classes of corporations, the same general class of wants may be provided for by general laws, but I say it is dangerous to prohibit the Legislature absolutely from special legislation; whatever may be the

emergency. But if we are to do it in nearly every instance, let us do it in all. Strike out these words, "except for municipal purposes," and let us have consistency. It is not more absolutely necessary for municipal purposes than it may be in others.

Mr. SIBLEY. The gentleman refers to sticklers for general law, of which I am one. I acknowledge the fact. In regard to the exception for municipal purposes, which is made in this section, as amended, I can, very easily, see why it is proper and right that the exception should be made; because there are peculiar circumstances relating to the boundaries of towns and villages which takes this out of the general class of cases.

But the gentleman says that not one of these sticklers for general law has been able to show why the section as originally reported, should be modified in any respect. I think the gentleman is essentially wrong in that statement. We have challenged these gentlemen who are in favor of special law to produce one single case where the object to be attained under a special law, could not be attained under general law. I am opposed to taking any step backward. So strong are my convictions on the subject that if this were merely an experiment, I should be in favor of trying it; but it is no new thing. Instances have been cited here over and over again, where the experiment has been tried, and I defy any gentleman to point to a single instance where it has been tried and has not been found to work for the public interest. No sir, these general laws have never been found wanting in any element for developing, in full, the resources of the State in which they have existed.

I, for one, am opposed to going back to my constituents with any thing, except a Democratic Constitution in my hand to present for their adoption. I would not, on any consideration, do any act that would deprive capital of its just reward. I would not, by any regulation we may make, stand in the way of any public enterprise; but at the same time, I have had experience, and other gentlemen here have had experience enough to know that it will not do to trust the Legislature with unlimited powers on this subject.

It is true, I have very great respect for the opinion of the Chairman of the Committee, which reported this Article. He has had the experience of several sessions of the Legislature, while I have but once been a member of that body. But in that session I saw enough to determine me that if ever I had any thing to do with the formation of the Constitution of a new State, I would place it beyond the power of the Legislature to pave the whole country as

ours has already done, with charters, conferring special privileges. I say that inasmuch as we are here in an unsettled community, the arguments in favor of general laws are stronger than they would be in an older State, where the people understand each other. It is doubly our duty to tie up the Legislature from the power of imposing upon the people of our future State, these charter privileges which have been the curse and bane of all the States.

Now sir, I am in favor of the section as offered by the gentleman from Ramsey. I think it is a little more comprehensive than the language contained in the original section, and I am for this reason, in favor of embodying it in the bill. I am not in the least particular in reference to the exception which it makes in favor of municipal purposes. I think it would be very practicable to frame general laws which should cover such cases, and rather than give the Legislature the latitude which is proposed in the original section, I would consent to see even this exception stricken out and the whole business done under general laws.

Mr. TENVOORDE. I move to amend the substitute by striking out the words, "except for municipal purposes." The substitute will then read:

No Corporations shall be formed under special acts.

Mr. FLANDRAU. I rise for the purpose of explanation merely. I have been referred to as in favor of special legislation. I deny that I am in favor of special legislation, and I am only in favor of this section as reported, because it prohibits all special legislation except where the objects of the corporation cannot be attained under general law.

Mr. GORMAN. When are they not attainable under general law?

Mr. FLANDRAU. It seems to be admitted on all sides that they are not attainable under general laws for municipal purposes.

Mr. SHERBURNE. It is not admitted.

Mr. GORMAN. Certainly not. This is the first time in this debate that I have heard of such an admission.

Mr. FLANDRAU. I thought the gentleman himself admitted it.

Mr. GORMAN. I beg the gentleman's pardon, I challenged him to produce one instance where special law was necessary.

Mr. FLANDRAU. When I asked that there should be no distinction in favor of legislation for municipal purposes, I merely did it by way of argument to show where the carrying out of the principle for which gentlemen are contending would lead us. Now sir, to those gentlemen who are all the time crying out against

special legislation, who say the Territory will be flooded with special legislation, and that those who favor the report of this Committee, are in favor of special legislation, I wish to deny, again, that this report does favor special legislation. I call attention again to the language and ask if any thing can be more imperative upon the Legislature against special legislation.

Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and in cases where the objects of the corporation cannot be attained under general laws.

Can any thing be plainer or more imperative? Does the argument of gentlemen on the other side need comment, when they challenge us to produce a single case where the objects of a corporation cannot be attained under general laws, and yet say the country will be flooded with special legislation, although according to their own views it will be impossible under this section, for the Legislature to pass a single special act. They are imperatively commanded not to do it! The argument is inconsistent, utterly inconsistent, and although I said, for the purpose of argument, that you should strike out the words "except for municipal purposes," and make a clean thing of it—make everything subject to general legislation,—yet I do not believe it would be wise to do it. I believe that the wants of certain cities require special legislation. Our progress will require it; for I do not believe our country has done growing yet. I do not think this city of St. Paul has done growing. I trust it will expand and require new charters and much special legislation to develope its resources and meet the wants of its inhabitants. And so it will be with other cities in the Territory. I should dislike exceedingly to see the wants of this country disregarded, because the Legislature is so trammelled as to be unable to act.

Mr. SHERBURNE. I rise to correct the impression which the gentleman who has just taken his seat seems to have gotten, that those who are in favor of general laws are all in favor of excepting municipal corporations from their operation. Now, Mr. CHAIRMAN, I am not opposed to excluding them also from special legislation, and yet there is such a distinction between corporations for business purposes, and corporations for municipal purposes, that no gentleman can well fail to perceive it. A municipal corporation is adopted by the people and always subject to their control. I know of no instance in which a town or city corporation is imposed upon the inhabitants unless it is first adopted by the people over which it is to have control. It is not framed for purposes of business, but simply for the purpose of carrying on government.

Mr. FLANDRAU. I ask the gentleman to point out a single in-

stance where the charter of a city has been adopted by the people of that city.

Mr. SHERBURNE. I only speak from recollection, for the short time I have been in the Territory. I know that such is usually the case, and if it is not always, I can only say that when the Legislature undertakes to impose a charter upon a city in opposition to the wishes of the people, they are not in the way of their duty. It is true, the Legislature is bound in the discharge of their obligations to lay off towns and counties, and to see that there is some form of government by which the public expenses shall be sustained. There must be boundaries laid down, but so far as my knowledge extends, I have never known a single instance where a charter was imposed upon the people, without first submitting it to them for their adoption or rejection.

The great difference between these municipal and other corporations is, that the municipal corporations are not for the purpose of making money. I apprehend there would be no danger of future legislation in reference to these corporations, for there is no pecuniary interest involved. In any regulations they make, no advantage can be taken by one man of another man, no obligation is imposed upon one man more than another man, unless he is an abler man. All have votes equally in the regulation of their affairs. They have their Mayor, their Common Council, their Treasurer, and their regular *quota* of city officers. It is purely a matter of the people, and totally distinct in every possible manner from a business or pecuniary transaction. But at the same time, I can see very well how municipal corporations may be formed under general laws which shall apply to all alike. I think this class of corporations is totally distinct from corporations for business purposes, but if it is proposed to strike even these out as exceptions, and make a clean thing of it, I can see no very strong objection.

Mr. BROWN. I made the exception in deference both to the Committee which reported the original section, and to every gentleman who has offered an amendment upon this subject—for it has been made in every instance—and not because I believed it absolutely necessary that the exception should be made. The exception, too, I believe, is made in nearly all the Constitutions of the several States.

But, sir, as the section stands, I do not think it covers all we want to cover. It reads :

SEC. 2. Corporations may be formed under general laws, but shall not be created by special acts, except for municipal purposes. All general laws and special acts passed in pursuance of this section, shall be subject to amendment

or repeal by the Legislative Assembly after a certain time specified in such law, and such time shall not exceed the term of ten years, unless the corporation be formed for the construction of a railway or canal, when the Legislature may, at its discretion, grant additional time.

Now, sir, admitting that the Legislature should, at its first session, pass a general law for the formation of corporations for the construction of railroads, and should fix the term the full extent provided for in this section, that law must remain in full force, unchanged and unaltered for ten years. The Legislature would have no power to pass any act to meet any emergency that might arise on the subject within ten years. I can see no necessity for such a provision as that. I conceive that the Legislature should have full power to change and alter the laws from session to session to meet the progress which may be made, creating new wants and demanding new legislation. At the same time let all these changes and alterations be general in their nature, applicable to all, and let there be no special acts, conferring special privileges upon particular individuals.

Mr. SETZER. There is no special reason that I can discover, why there should be an exception made in this article in favor of municipal corporations. There is already a general law upon our Statute Books for the incorporation of towns and villages, which provides that any man having one hundred and sixty acres of land could apply to a Register of Deeds, and have his tract of land incorporated into a town ; and the only reason why any special legislation has been had upon the subject within the last three or four years, was because some gentlemen did not think it worth while to avail themselves of the provisions of the general law, and came and petitioned the Legislature for special charters. Now, sir, a great deal has been said about the action of the Legislature of this Territory for the last three or four years, in flooding the country with special laws. It is true they have passed charters covering almost every mile of river country in the Territory, but has anybody suffered by the passage of those acts ? It is true, they have chartered turnpike companies, and laid out plank roads which have never been built, but has any citizen of this Territory suffered in consequence ? Not that I am aware of. They had nothing else specially to do, and they could just as well be employed in this way as any other. They have granted no special privileges to any particular set of persons to the detriment of the interests of others. They have in every instance granted these privileges where they could do no harm, and wherever in their opinion, the granting of a charter would be detrimental to the interests of others, they have

refused to grant it, and have not allowed themselves to be persuaded even by their most intimate friends. But wherever a special charter could be given without danger to the interests of the people, and it was applied for, we said let it be given.

It seems that we are appropriating to ourselves all the virtue and honor there is in the Territory. We are not willing to trust the representatives of the people, who are amenable to the people every year for their action in any matter whatever. Everything is to be taken care of by us. It is certainly strange that gentlemen here who profess to be Democrats, are not willing to trust the representatives of the people in any matter which concerns the welfare of the people. It is impossible for us to anticipate the emergencies which may arise in the West twenty or thirty years hence; and it is no good argument to say that because gentlemen here cannot refer them to every contingency which may arise in the progress of events, therefore no events will arise which may need special action upon the part of the Legislature. I am for giving the representatives of the people full power to provide for any emergency which may arise to meet the wants of the country. I say that it is not good Democratic doctrine to deprive them of all power.

Mr. BROWN. I will correct the gentleman in one position he has taken in regard to the laws upon the subject of municipal corporations. The gentleman says there are more laws upon that subject upon our statute books than any other. That is, probably, true, but it is the fault of the Legislature. The general law for the incorporation of towns requires a population of 300 before any preliminary arrangements for incorporation can be made; while under special acts, in a large proportion of the instances, towns have been incorporated with not more than fifteen or twenty inhabitants. It is because the general law has not been framed to meet the wants of the Territory that so many special acts have been asked for and passed. I think that general laws for municipal purposes may be framed to meet all the objects for such incorporations just as well as for other corporations. Why, sir, bills passed the Legislature last winter, incorporating as many as fifty towns in one bill, and why could not these towns have been as well incorportaed under a general law granting the same privileges and immunities which they received under this special act? There is no difficulty at all upon the subject.

The amendment to the amendment was agreed to, and the question recurred on the substitute as amended.

Mr. MEEKER. I move to amend the substitute by striking out the first paragraph and inserting as follows:

Corporations shall be formed under general law and shall not be created by special acts, except where the objects of the corporation cannot be attained by a general law upon the subject.

Some gentlemen have argued that under the Section as reported by the Committee, the Legislature might refuse to pass any general law upon the subject of corporations, and thus leave the whole matter open to special legislation. It will be seen that by the amendment I have introduced I have made it imperative upon the Legislature to pass a general law upon the subject of corporations, and have only given them power to act specially only in cases where a general law to meet the exigency would not be proper. That, of course, covers municipal corporations, and any other corporations where the objects cannot be attained under general laws.

The amendment to the amendment was not agreed to.

The substitute, as amended, was then adopted.

Section 3 was then taken up for consideration. The Section is as follows:

SEC. 3. Dues from corporations shall be secured by such individual liability of the corporators or other means as may be prescribed by law.

Mr. Gorman moved to strike out the 3d Section entirely, and to substitute therefor the following:

Ample provision shall be made, making each stockholder individually liable to the amount of stock held or owned by him.

Mr. GORMAN said: I would not care if the provision made the stockholders liable for three times the amount of stock taken by them. I would cheerfully vote for it then. I will read from the Constitution of the State of Ohio a provision upon this subject, which was adopted after a discussion of very great ability:

Dues from corporations shall be secured by such individual liability of the stockholders and other means as may be prescribed by law; but in all cases, each stockholder shall be liable over and above the amount of stock by him or her owned, and any amount unpaid thereon, to a further sum at least equal in amount to such stock.

This provision, I believe, is as good as it can be, and I will not willingly consent to anything less guarded.

A MEMBER. Has any railroad ever been built under that provision?

Mr. GORMAN. Nearly all the railroads in the State have been built under it.

Mr. BROWN. I move to amend the substitute by striking out the word "ample."

Mr. GORMAN. I will accept the amendment.

The substitute as modified was adopted.

Section 4 was then taken up for consideration, as follows:

SEC. 4. Lands may be taken for public way, for the purpose of granting to any corporation the franchise of way for public use. In all cases, however, a fair and equitable compensation shall be paid for such land and the damages arising from the taking of the same. Any attempt on the part of the corporation, enjoying the right of way, in pursuance of the provisions of this section, to pervert its privileges from their legitimate construction, and for the purposes of private speculation shall vitiate such right of way, and the lands shall revert to their original owner.

Mr. FLANDRAU. I move to strike out that Section and to substitute for it simply the words,

Private property shall not be taken for public use without just compensation.

Mr. MEEKER. I would suggest that that provision is in another Article where it appears, it seems to me, more appropriately than here.

Mr. FLANDRAU. I understand that it is not in the Bill of Rights.

Mr. BROWN. The same words moved by the gentleman from Nicollet, occurs in the Bill of Rights, and I think they had better not be inserted here. There was another object sought to be attained by the Committee which reported the section. It is to prevent Railroads which have obtained the right of way, from taking a particular business into their own hands to the exclusion of the public. I am told that there is at least one instance of a Railroad Corporation which has refused to carry a certain article for any one but themselves, and has thus established a monopoly against the general interest of the public. It is to provide against the possibility of such an occurrence under our laws, that the Committee have inserted the latter clause of this section, as I understand.

Mr. SETZER. I will state that the Pacific Railroad, running from St. Louis, Missouri, has undertaken to carry out that policy in reference to one article of transportation.

Mr. MEEKER. Whenever they undertake that in this State, we will punish them so that they will not make the second attempt. The matter is entirely under the control of the Legislature, to provide a remedy. I hardly see the necessity of providing for it in the Constitution.

Mr. SETZER. The gentleman forgets that the Legislatures are very corrupt, and that hereafter there is to be no power placed in their hands. [Laughter.]

Mr. FLANDRAU. I think, Mr. CHAIRMAN, that these things which we are endeavoring to guard against, are an invasion of legisla-

tive rights. If we are to assume that the Legislature does not know enough to form a Railroad act which will protect the rights of the public, we might as well go through all the formula of legislation in the Convention. Sir, it is provided that private property shall not be taken for public uses, without paying a just compensation in the Constitution of the United States. Railroads have been decided to be public corporations; and now, sir, I think when we have provided in the Bill of Rights that private property shall not be taken for public uses without a just compensation being paid; therefore, we have provided all the guards which are necessary. But when we undertake here in the Constitution, to restrict the powers of a Railroad corporation—which certainly ought to be confined by the Legislature to the carrying trade—we are invading the rights of the Legislature. There is no doubt that the charters of these companies should require the companies to confine themselves to the legitimate business for which they were incorporated. As I find the words I proposed to substitute, are in the Bill of Rights, I will simply move to strike out this section.

The motion was not agreed to.

Mr. EMMETT. For the purpose of giving gentlemen an opportunity of considering this subject, and expressing their views upon it in future, I move that the Committee rise, report progress, and ask leave to sit again.

The motion was agreed to. The Committee accordingly rose, reported progress, and asked leave to sit again.

Leave was granted.

THE MILITIA.

On motion of Mr. BAASEN, the Convention resolved itself into Committee of the Whole, on the report of the Committee on the Militia, Mr. BROWN in the Chair, the question pending, being on the motion of Mr. M. E. AMES, to insert the word "white" after the words, "able-bodied," and to strike out the words, "negroes and mulattoes."

Mr. M. E. AMES. I offered that amendment originally, and I hope it will prevail, for three reasons: I do not conceive that the objections urged against it yesterday were very weighty, or that they really exist; and I think the gentleman who urged them, upon reflection, will come to the same conclusion himself. I offered the amendment because the phraseology used in it is similar to that used in nearly all the Constitutions of the different States upon the subject, and I hope it will prevail.

I disclaim entirely, as I disclaimed yesterday, any intention of

excluding that respectable and valuable class of citizens, of mixed White and Indian blood, who have adopted the customs of civilization. I want them to be entitled to the same rights of citizenship, and to enjoy the same rights and privilegs in every respect that we accord to all the citizens of the State. But, sir, I foresee that this word "white," will become necessary to be used in the Article on the Right of Suffrage, and in other portions of the Constitution. And to prevent all misconstruction upon the subject, I would suggest that it will become necessary to insert a clause in the miscellaneous provisions, or some where, defining the word so that there cannot be a possibility of misconstruction.

Mr. SIBLEY. I am opposed, as I said yesterday, to the amendment offered by the gentleman, who has just taken his seat. As I have before remarked, if it is intended that these persons of mixed White and Indian blood shall be permitted to exercise the rights and privileges of citizens, I want that they shall be categorically designated in the Constitution, so that there shall be no recourse to the Courts hereafter, or misconstruction on the subject.

Now sir, if the decisions of the courts had all been uniform upon the construction of this word, and that construction had been as the gentleman from Ramcey, (Mr. M. E. AMES,) says it has, I would more willingly consent to see his amendment incorporated into this section ; but as I know that different constructions have been given on different occasions, and as I have every reason to believe that such will be the case in future, if we have the matter in the shape in which the gentleman proposes to place it, I say again, I hope the amendment will not be adopted.

Mr. EMMETT. Will the gentleman allow me to give an instance in addition to the one he gave yesterday, that half breeds have not been construed to be included under the word white ? It has lately been decided by the Attorney General of the United Statss, that half breeds were not citizens of the United States, and were not entitled to the rights of pre-emption.

Mr. SIBLEY. I propose to offer an amendment to the amendment of the gentleman from Ramsey, by adding, "provided the "word white where it occurs in this section, shall be construed to "include those persons of pure and mixed Indian and white blood "who have adopted the customs and manners of the whites."

Now Mr. CHAIRMAN, I take this broad ground ; that when even a pure blood Indian has adopted the manners and customs of the whites, and has become qualified by education, or otherwise, he shall have the right to vote and shall enjoy all the rights and immunities of a white man. We have got to do either one thing or

the other, we have got to adopt the principle of allowing a full blood Indian to be admitted to all the rights of citizenship, when he adopts the habits and customs of civilization, or else we must exclude the whole class. It will not do to undertake to include those who are a third or a quarter Indian blood, and exclude those of a larger portion. Let us adopt some principle in the matter one way or the other. For myself I think an Indian is just as much entitled to the privileges of citizenship when he has become civilized, and has become able to appreciate his position as a member of the community, as a white man.

When I was in Congress I brought forward a provision to the same effect; that Indians should be acknowledged as citizens of the United States, whenever they should relinquish there savage habits and customs. The proposition was endorsed by some of the ablest minds in the country at that time, and I have no doubt would have passed Congress if it could have been acted on; bnt it was so low down on the Calendar that it was not reached in its course before the close of the session, and has not been brought up there since. I believe such a provision would have more influence than any other in seconding the effort of those who are laboring to reclaim the Indians from their savage habits, and to prevent their final extinction. I hope we shall be willing to incorporate this principle into our Constitution.

Mr. M. E. AMES. It seems from the remarks of the gentleman from Dakota, that he does not understand the position which I assume. I agree perfectly with him, and I believe, judging from his remarks, that he agrees with me in the principle which I propose to carry out by this amendment. I offered the amendment as it stands, because I believe it embodies correct phraseology, and because I believe it is carrying out an important principle, without rightfully incurring the objections which have been urged against it.

Now, sir, I propose to insert the word "white" and then not have it an open question for the courts to decide as to the proper construction of the word, but to insert in another portion of the Constitution, a clause which shall, in direct terms, include Indians of mixed white blood, under the term white—that they shall be ranked and included as white citizens. I propose in other words, to insert a provision declaring that the word "white," wherever it shall occur in the Constitution, shall be deemed and taken to include all persons of mixed white and Indian blood. That removes all doubt from the subject. It ceases to become a question of judicial

construction and places that class of our fellow citizens on the same footing with the whites.

I have no objection to the amendment proposed by the gentleman from Dakota, only I think this is not the place to insert it. I propose that there shall be a general provision inserted among the miscellaneous clauses, construing the word wherever it occurs in the Constitution. I state distinctly, that I will go as far as the gentleman from Dakota or any other gentleman upon this floor, in securing to this class of persons their full rights as citizens.

Mr. SIBLEY. I wish to state that I am not in the least afraid that the Convention will not give this construction, and it is immaterial to me in what place it is to be inserted. It occurred to me, that if the gentleman proposed to insert the word at this point, this would be the proper place to insert the construing declaration. I am anxious that the Convention shall at once adopt the principle, and then if it should seem more appropriate to insert it in another place afterwards, I have no objection. But, sir, as it can be inserted at another point, rather than prolong the discussion, I will withdraw the amendment.

Mr. FLANDRAU. Gentlemen seem perfectly agreed upon the proposition that persons of mixed white and Indian blood shall enjoy all the rights and privileges that we enjoy, but cannot agree as to the manner in which that principle shall be expressed. Now I ask, what is the use of putting the word "white" into this clause which shall require an explanatory clause to define its meaning. The section as reported, reads thus:

SECTION 1. The Militia of this State shall consist of all free able-bodied male persons, negroes and mulattoes excepted, resident in the said State, between the ages of twenty-one and forty-five years, except such persons as now are or hereafter may be exempted by the laws of the United States; and they shall be equipped, organized, and disciplined in such manner and at such times as may be directed by law. Those who conscientiously scruple to bear arms, shall not be compelled to do so, but shall pay an equivalent for personal service.

Now, sir, that would include everybody who would be included in the amendment of the gentleman from Ramsey, with his explanatory statement. It would exclude negroes and mulattoes. It excludes the Indians who have not adopted the customs and habits of civilization, for they are a separate class by themselves, made so by United States laws and treaties; they are in no sense included within any class of persons over which the State has jurisdiction. There is therefore, no danger of their being included without a separate provision to exclude them. The section is perfectly clear and unmistakable, as it stands, and I repeat, what is

the use of putting in the word "white" there, which will only have the effect of mystifying the whole clause?

I have no doubt of the intention of the gentleman. I have no doubt that when the clause, if it is inserted, shall come up for construction in the courts, his eloquence in behalf of the half breeds, would be sufficient to satisfy the courts that they should be included as citizens. But why is it necessary to make a Constitution that needs fortifying at every point by arguments and authorities to clear up the doubts we have left there? I think the section is just right as it now stands.

Mr. SIBLEY. I understand the Chairman of the Committee which reported this article, has a substitute which is much more simple and will relieve us from any difficulty in the matter. I will therefore suggest to the gentleman from Ramsey, that he withdraw his amendment and allow the substitute to be offered.

Mr. M. E. AMES withdrew his amendment.

Mr. BAASEN. I move to strike out the first five sections as follows:

SECTION 1. The Militia of this State shall consist of all free able-bodied male persons, negroes and mulattoes excepted, resident in the said State, between the ages of twenty-one and forty-five years, except such persons as now are or hereafter may be exempted by the laws of the United States or this State; and they shall be armed, equipped, organized and disciplined in such manner and at such times as may be directed by law. Those who conscientiously scruple to bear arms shall not be compelled to do so, but shall pay an equivalent for personal service.

SEC. 2. The Militia of this State shall be divided into convenient divisions, Brigades, Regiments, Battalions and Companies, with officers of corresponding titles and rank to command them, conforming as nearly as practicable, to the general regulations of the army of the United States.

SEC. 3. Captains and Subalterns in the Militia; Field Officers of Regiments; Brigade Inspectors; Brigadier Generals, and Major Generals, shall be elected or appointed in such manner as shall hereafter be provided by law.

SEC. 4. The Government shall appoint the Adjutant General and other members of his Staff; Major Generals, Brigadier Generals and Commanders of Regiments, and separate Battalions, shall respectively appoint their own Staff. All Staff officers may continue in office during good behavior, and shall be subject to be removed by the superior officer from whom they respectively receive their appointment.

SEC. 5. All military officers shall be commissioned by the Governor.

And to insert in lieu thereof, the following:

SEC. 1 Laws shall be passed providing for the organization and discipline of the Militia of the State at the next session of the Legislature.

Mr. BECKER. I move to strike out the words "at the next session of the Legislature."

Mr. GORMAN. I hope the amendment will not prevail. The

Legislature should provide for the organization of the militia at its first session.

Mr. BECKER. I made the motion because, as the substitute now stands, no Legislature, except at the first session, will have any cognizance over the subject. I have no doubt that the Legislature will make such provision at its next session, but if it should fail, no other Legislature would have any authority over the subject.

Mr. FLANDRAU. I would suggest the word "first" would be a better one to use than "next," so that it shall read "at the first session of the Legislature."

Mr. SETZER. It seems to be necessary that the Legislature should be compelled to organize the militia at its first session. We have heard so much here that Legislatures are not to be trusted, that I would suggest the condition of our frontiers may require a well organized militia force as soon as possible.

Mr. MEEKER. I agree with the gentleman that the Legislature should proceed to organize the militia force at its first session; that it should be made the imperative duty of that body so to organize the militia. But suppose, like some other Legislatures, I will not say when or where, they should take it upon themselves to disregard their duty, the next Legislature would not have the authority to do it under the clause. The object, certainly, is not to deprive subsequent Legislatures of their power over the militia organization.

Mr. FLANDRAU. I presume that provision would be construed as only directory, and the subsequent Legislatures would still have power to act.

Mr. GILMAN offered the following amendment to the substitute:

The Governor of this State shall be Commander-in-Chief of the Militia, and the Legislature thereof shall, as soon as possible, provide suitable laws for the organization of the Militia of the State.

Mr. SETZER. I should like to know what is the difference between the two amendments?

Mr. BECKER. One provides that it shall be the duty of the Legislature to organize the militia at the first session, and the other, as soon as practicable.

The amendment to the amendment was not agreed to.

The substitute was adopted.

The Sixth Section was then taken up for consideration, as follows:

SEC. 6. The Militia, as divided into Divisions, Brigades, Regiments, Battalions and separate companies, pursuant to the laws now in force, shall remain so organized until the same shall be altered or regulated by the Legislature.

Mr. SETZER. I move that Section be stricken out. If this Constitution is rejected, of course it will be rejected forever, and the Territorial laws will still remain in force.

Mr. BECKER. I would suggest that there should be some general provision retaining the Territorial laws in force until repealed by the State. Otherwise, we shall be in a state of disorganization.

Mr. FLANDRAU. There is a Committee on Miscellaneous Provisions which will no doubt report such a general provision; but it was thought best to report this, and if such a general provision is reported, it can be stricken out.

The motion to strike out was agreed to.

On motion of Mr. BAASEN, the Committee then rose and reported the article back to the Convention with the amendment agreed upon in Committee.

Mr. BROWN. Before the Convention acts upon the report of the Committee, I think it will be well to notice the wording of the amendment. As the article now stands, amended by Committee, the first Legislature is required to organize the Militia, and no subsequent Legislature will have power to touch the laws that shall then be made. No matter what exigency may arise, the laws must remain unchanged, for no other Legislature has any authority over the subject. I move to strike out the amendment reported by Committee, and to insert the following:

It shall be the duty of the Legislative Assembly to pass such laws for the organization, discipline and service of the Militia of the State as may be deemed necessary.

I presume, as has been suggested, a provision will be reported, which shall continue the laws in force until new ones shall have been enacted. We shall therefore be provided with the military organization which now exists until the Legislature see proper to change it, and then subsequent Legislatures will have the power to make such provision as may be necessary to meet any emergency that may arise.

Mr. SHERBURNE. I hope the substitute offered by the gentleman from Sibley will be adopted. If there were no other objection to the Section as reported by the Committee of the Whole, there is an uncertainty about it which I think we should avoid. It is possible the first Legislature might not feel bound to pass laws for the organization of the Militia, and if they did not, of course there would be no remedy. It seems to me that one of the first duties of the Convention is to make all their provisions perfectly intelligible. I think the amendment much preferable to the Section as reported, and I hope it will be adopted.

The amendment to the substitute, as reported from the Committee of the Whole, was adopted.

The report of the Committee, as amended, was then concurred in.

On motion of Mr. SETZER, the article was adopted and referred to the Committee on Revision and Phraseology.

On motion of Mr. TENVOORDE, the Convention, at one o'clock, adjourned.

EIGHTEENTH DAY.

MONDAY, August 3, 1857.

The Convention met at 9 o'clock, A. M.

The Journal of Saturday was read and approved.

On motion of Mr. SETZER, a call of the Convention was ordered.

The SERGEANT-AT-ARMS was directed to report absent members in their seats.

On motion of Mr. SETZER, further proceedings under the call were dispensed with.

On motion of Mr. WARNER, Mr. KENNEDY was excused from attendance this day.

PRINTING OF THE ENABLING ACT, &C.

Mr. KINGSBURY offered the following resolution which was considered and agreed to.

RESOLVED, That the Secretary be requested to ascertain why the copies of the Enabling Act, and the Act which passed the last Legislature, relative to the Constitutional Convention, have not been furnished this body in pursuance of a Resolution passed on the 27th ultimo.

INSTRUCTIONS TO REPORTER.

Mr. GORMAN offered the following resolution:

RESOLVED, That the Reporter be instructed, under the direction and supervision of the President, to report in full the debates and proceedings of the Convention relating to its organization and the formation of a Constitution and State Government; and to furnish an abstract of such other debate as may arise upon the various incidental motions and propositions which shall be submitted.

Mr. GORMAN. The object of this resolution is to give instructions to the Reporter in reference to reporting in full, the debate which may arise upon mere side-bar matters which are of no consequence. I presume it will be better to give an abstract of

such debate. The resolution places the whole matter under the direction of the President, and I presume there will be no objection to it.

The Resolution was adopted.

PRINTING OF THE DEBATES.

Mr. GORMAN. I wish also to call the attention of the Committee to the subject of Printing the Debates of this Convention. I believe nothing has been done in relation to the matter thus far, and it is not worth while to wait any longer. If we are not to have these Debates printed within a year from the time of our adjournment, they may as well not be printed at all. The only report of the proceedings of this Convention which now goes before the public, is the simple abstract furnished by the Reporter of the *Pioneer and Democrat*. Something should be done in relation to the matter. I merely make the suggestion to the Convention.

Mr. DAVIS then offered the following resolution, which was considered and adopted :

RESOLVED, That a Committee of three be appointed to ascertain upon what terms the Proceedings and Debates, as officially reported, can be published from day to day.

Mr. SETZER moved that the Convention resolve itself into Committee of the Whole upon the report of the Committee on "Bill of Rights."

Mr. MURRAY. I hope the motion will not prevail. My colleagues on the Committee, Messrs. CURTIS and STREETER are absent, and I hope that subject will not be considered until they are in their seats.

The motion was not agreed to.

DISTRIBUTION OF THE POWERS OF GOVERNMENT.

On motion of Mr. A. E. AMES, the Convention resolved itself into Committee of the Whole, on the report of Committee on the Distribution of the Powers of Government.

Mr. A. E. AMES in the Chair.

The report of the Committee was read as follows :

SECTION 1. The powers of the Government shall be divided in three distinct Departments—the Legislative, Executive, and Judicial ; and no person or persons belonging to or constituting one of these Departments shall exercise any of the powers properly belonging to either of the others, except in the instances expressly provided in this Constitution.

Mr. SETZER. I should like to know whether that takes away the power of the Legislature, to create lawyers and admit them to

the bar? If it does, I am in favor of it. If it does not, I am against it. [Laughter.]

Mr. M. E. AMES. I rise simply to suggest for the information and benefit of the gentleman from Washington, that this section does not take away the power from the Legislature for the simple reason that they never had it, and very seldom the qualification or ability. [Renewed Laughter.]

Mr. SHERBURNE. No, neither of lawyers nor men. [Laughter.]

Mr. SETZER. I made the enquiry because attempt was made in the Legislature to re-establish and admit to the bar, a certain lawyer who had been dismissed, and there were members who believed the Legislature had that power.

Mr. MEEKER. I move the adoption of the Article as it stands.

Mr. FLANDRAU. Before the article is adopted, I propose to analize it a little. (Mr. FLANDRAU read the section.) Now I do not know, but as the gentleman from Washington (Mr. SETZER) says, it would be a very good thing to keep lawyers out of the Legislature, and perhaps from many of the privileges that some gentlemen would like to deprive them of. But the question as to whether this Article would really exclude an attorney from holding a seat in the Legislature depends upon, whether he is or is not a portion of the Judicial Department. He is an officer of the Court; there is no doubt about that, and so are the Sheriff, Marshal and Clerk, but whether this section would render them inelligible to holding a seat in the Legislature or an office in any other branch of the government, I leave for, gentlemen, to determine. I merely make the suggestion.

Mr. M. E. AMES. In reply to the gentleman from Nicollet, I will simply state that this Article was drawn up with very great care; that it does not exclude lawyers, for they are considered very useful and essential as members of that body, but it was drawn with especial reference to the exclusion of Judges, and I think it will have that effect. (Laughter.)

Mr. MEEKER. I really thought the suggestion of the gentleman from Washington, (Mr. SETZER,) was not in earnest, but as Judge FLANDRAU thinks it was, and makes his comments upon the supposition that it is not quite clear that lawyers may not be excluded from seats in the Legislature, and that Clerks of Courts, Marshals and Sheriffs may also be excluded, I will say that I have always regarded these officers as purely ministerial, and not judicial in any sense of the term. I will also say that I do not

consider lawyers as Judicial officers. They have nothing to do with the administration of justice, officially.

I believe this Article follows the very language of the Constitutions of several of the States, and there can certainly be no harm in adopting it.

Mr. BROWN obtained the floor.

Mr. SETZER. I call the gentleman to order; there is nothing before the Convention.

Mr. BROWN. Well sir, I have the right to submit a proposition, and when I have done so, there will probably be something before the Convention. I move to strike out the whole section.

It has been argued here that there is no impropriety in the provision that persons holding office in one of the departments of the the government should not interfere with the administration of another department. That is all true, but I would enquire as to the propriety of prohibiting Justices of the Peace and Judges of Probate from holding seats in the Legislature, for such, most assuredly, will be the effect of this section.

The Judicial Department, I presume, will include Courts of Record, Judges of Probate and Justices of the Peace. Now sir, Justices of the Peace are a portion of the Judicial Department of Government, then they will certainly, under this section, be debarred from holding seats in the Legislature. By our present laws, we have two Justices of the Peace authorized for each precinct, and I presume the number will not be diminished. Now I ask whether it will be advisable to exclude so large a class of our population from the right to occupy seats in the Legislature. I have no doubt of the power of the Convention to exclude them, but I doubt the propriety of it.

Mr. M. E. AMES. The gentleman has overthrown an object of straw, which he has himself erected. He says it would be impolitic and improper to prohibit Justices of the Peace and Judges of Probate from holding seats in the Legislature. I have to inform the gentleman that such is not the result of the Article. Justices of the Peace are no part, no portion of the Judicial Department of the Government, in the sense in which the Constitution uses it, and this is the first time I ever heard of that question being raised before a Constitutional body. Upon examination, it will be found that the provision reported in this article is exactly similar to one contained in the Constitution of almost every State in this Union. It is no new doctrine.

Mr. BROWN. It may be true, and in all probability is true, that such a provision is incorporated into the Constitution of almost

every State. Admit it, and my views are not changed in the least. The Article reads:

The Powers of Government shall be divided into three distinct departments, the Legislative, Executive and Judicial.

Now, let me ask what department Justices of the Peace belong to? The powers of government under this provision, are all comprised within three distinct departments. The Justices of the Peace and Judges of Probate must be included within one of these three divisions, and according to the terms of the Article, must be prohibited from exercising the powers of any of the other departments. I hold the Justices of the Peace do belong to the Judicial Department, and that unless they are specially permitted under this Article, by a fair construction, they will be ineligible to seats in the Legislature. That would be my construction, and in all probability it would be the construction of many others. While we have the subject under consideration, therefore, it is our duty to make the matter perfectly plain and beyond all doubt.

Mr. FLANDRAU. I believe this provision conforms to that of the Constitutions of many of the States. But sir, while it may be true that Justices of the Peace, may not, in Constitutional or abstract sense of the term, be considered a part of the Judiciary, yet whether they are really so, depends upon the wording of the Constitution itself. I notice that in the Organic Act of this Territory, and in a number of the Constitutions of the different States, it is provided that the Judicial Powers of the State shall be vested in a Supreme Court, District Courts, Courts of Probate, and Justices of the Peace. If we, in our Constitution, follow these precedents, it is manifest that Justices of the Peace and Judges of Probate will be excluded from seats in the Legislature, and from holding an executive office. Now sir, while there is every reason why Judges of Courts of Record should be excluded from these positions, I can see no reason why Justices of the Peace and Judges of Probate should be.

Mr. MEEKER. I concur in opinion with the gentleman from Nicollet, that Justices of the Peace and Judges of Probate should not be excluded from holding seats in the Legislature, and from executive offices, and that Judges of the Supreme and District Courts should be excluded, because they constitute the chief constituent part of our Judiciary system. Justices of the Peace and Judges of Probate have not usually been considered, technically, a part of the Judiciary. I do not think they should be so considered; but sir, if they are made so by the Constitution, if they are made to have, as they do have in some of the States,

criminal and civil jurisdiction, why, I can see no impropriety, on the contrary, it seems to me exceedingly proper that they should be prohibited from participating in the powers of the other departments of government.

But, sir, I am opposed to the motion pending, to strike out the whole Article. If no distinction is made between the great subdivisions of Government, you may see the Legislature forming a conglomeration of a Legislative, Executive and Judicial body, such as would present a startling anomaly in our system of Government.

If gentlemen wish that Judges of Probate, and Justices of the Peace shall be made eligible to seats in the Legislature, let a provision be made specially granting that permission, and do not, by striking out the whole Article, render the highest officers in the Legislative or Executive Departments of Government, eligible to seats in the Legislature, and thus inaugurate in our Constitution a system which would startle every American Statesman. Unless the gentleman from Sibley has a substitute to offer for this section, I hope he will not insist on the motion to strike out. I am willing that Justices of the Peace should be admitted to seats in the Legislature, but I would go no further.

Mr. SHERBURNE. The section which is now under consideration is a very old section, perhaps not exactly the same in language, but substantially the same as has been adopted into the Constitutions of all the States. There has always been provision made for three grand divisions of Government.

Mr. BROWN. Will the gentleman permit me to say that I made the motion to strike out the section for the purpose of avoiding the question of order made by my friend from Washington, (Mr. SETZER.) With the consent of the Convention I will now withdraw that motion, and move to add to the end of the section these words, "But this Article shall not be construed to exclude Justices of the "Peace, and Judges of Probate from the right to hold seats in the "Legislature, or any Executive Office." That will bring the subject up for consideration.

Mr. SHERBURNE. The motion does not necessarily change the remarks I proposed to make. As the gentleman from Nicollet, (Mr. FLANDRAU,) remarked, the Organic Act of the Territory, and I think the Constitutions of some of the States which have been more recently adopted, have made Justices of the Peace a part of the Judiciary Department. In the older Constitutions, however, they have not been so considered, and in my opinion

cannot be so considered, unless made so expressly by Statute or Constitutional provision.

Whether the amendment offered by the gentleman from Sibley is necessary or not, therefore, depends simply upon whether Justices of the Peace and Judges of Probate are made by the Constitution we shall adopt, a part of the Judiciary Department. If they are not, then the amendment is unnecessary and ought not to be adopted into the Constitution, because it means nothing. If they are, then I go for the amendment. I do not know how that is to be determined until we have acted upon the Article on the Judiciary. I should be glad to see, when the Constitution comes up as a whole, all of its parts correspond with each other. I should rather not see any part inconsistent with another, or unnecessary.

Mr. WARNER. For one, I am entirely opposed to the motion of the gentleman from Sibley, (Mr. BROWN.) I do not conceive that a man who holds any official position whatever, in the Judiciary, whether that of Justice of the Peace or Judge of a Court of Record, is entitled to a seat in a Legislative body. How is it possible for a man to hold two offices at the same time, and discharge efficiently the duties that appertain to both. If he holds an office under the Judiciary, and is elected to a seat in the Legislature, let him resign his office before he enters upon the duties of the place to which the people have called him.

Mr. SIBLEY. It strikes me that this Article will have to be gone over again after the other provisions of the Constitution have been adopted, and made to conform to them. The proviso offered by the gentleman is an unusual one, and I would suggest to him that he allow the section to be adopted as it stands for the present, and if it should become necessary to make the exceptions which his amendment indicates, they can be provided for afterwards, in the proper place.

Mr. WAIT. It seems to me the latter part of this section is very improper in its place. I think it would be better to provide for the disqualification of these officers to hold other offices under the heads of the several departments to which they belong. In the Article on the Judiciary Department, let us say what officers in that department shall be disqualified for holding offices in other departments, and the same in the Legislative and Executive Departments. If we undertake to exclude these whole classes of officers, the whole subject will again come up in the consideration of each separate Department. I should prefer to strike out the latter clause of this section entirely, so that the section will read,

The powers of the Government shall be divided into three distinct departments—the Legislative, Executive and Judicial.

Then when the subject of the Judicial Department comes up, we can define the powers of the Judges, and impose such restrictions as we may think proper; and the same can be done with the Executive and Legislative.

Mr. MEEKER. It was stated by the Chairman of this Committee, (Mr. M. E. AMES,) and other gentlemen who have spoken on this question, the object of this section is to provide for the usual distribution of the powers of Government into three distinct departments, with the qualifications and limitations which are contained in nearly all the Constitutions which are made now-a-days. The gentleman who was last up, (Mr. WAIT,) is desirous of striking out that clause which prohibits the interference of the officers belonging to one department of Government with the duties of those belonging to another, for, as he says, the Article on the Judiciary will define the powers and restrictions of the Judges, and the same will be done in the Articles on the Legislative and Executive Departments relative to the officers provided for in those Articles.

But, sir, permit me to say that this entire separation of the powers and duties of the different departments of Government, is not preserved in practice. The Legislature has judicial jurisdiction for certain purposes. The Senate and House of Representatives are empowered, in certain cases, to try high officers of the Government. In that capacity they act as judges, and to that extent interfere with the duties belonging to the Judiciary Department. In my opinion, however, it is eminently proper that this distinction should be observed. I would prefer, with the gentleman from Scott county, (Mr. WARNER,) that the section should be adopted just as it has been reported. I think it is better to conform to the distinctions which in our American system of government, we are all accustomed to, and that the officers connected with one department of Government, should have no authority to interfere with another department except in special cases, such as I have named. The cause of liberty, the cause of justice, as the experience of this country and of all other countries shows, demand that these distinctions should be preserved. The man who makes the law must not expound the law, and the man who executes the law must not be the law maker. These are maxims of government which we have been taught from our boyhood, and I am opposed to their being broken down by this body.

It has been very properly said, if a man is elected to the office of Judge of Probate, he ought to be satisfied with that office until he

is prepared to resign it for some other office. It is not our business to make offices for officers, but it is our business in framing the fundamental law of the land, in looking to the welfare, happiness, and prosperity of the people, to see that one man does not hold two, four, or six offices in different departments of the Government. I say that when a man is elected to the office of Justice of the Peace, he has no business to abandon the duties of his office and leave his people without justice during the sessions of the Legislature. And I say that when a man is elected as Judge of Probate, he has no right to abandon the Probate business of his district to attend the duties of another office. I am decidedly in favor of allowing the section to remain precisely as it stands, and conform to the system of government which the experience of all the States has shown to be a wise one.

Mr. EMMETT. My object in rising is not to make a speech, but to offer an amendment, which I shall do before I take my seat. I think with gentlemen who have spoken upon this section, that the nature of its construction should be placed beyond all doubt. The very fact that learned gentlemen who have spoken here differ as to the construction which should be given it, makes it incumbent on us to put it beyond the possibility of misconstruction. Now, sir, I can see no reason why Justices of the Peace and Judges of Probate should be prohibited from holding any other office, either Executive or Legislative; neither can I see any good reason why a member of the Legislature may not very properly, during his office as such, be elected to the office of Governor. The great object of the provision is to prevent Judges of Courts of Record from dabbling in politics while they are on the bench, for the purpose of getting elected to some other office. Now, sir, it may be improper to allude to what has transpired in any other Committee, but I will state that I believe the Committee on the Judiciary will report a provision to be inserted into the Judicial Article, which will obviate any necessity for the restriction which is proposed to be inserted in this Article so far as the Judiciary are concerned. I do not think it proper that an Executive officer should, during the term of his office, become a Legislator, though I see no objection whatever, to a member of the Legislature being elected to an Executive office, when, if elected, of course his Legislative duties would cease.

Now, sir, I am opposed to the section as it stands with the doubt which hangs over its construction. As a lawyer I may at some day be ambitious of becoming a Justice of the Peace. I have colleagues around me, promising young men, who may also have

aspirations for election to that office, and when we have been elected, I see no reason why we should be deprived from occupying seats in the Legislature simply because, by a construction which may be given to this section, we may be considered as belonging to the Judiciary.

Mr. WARNER. I should like to know of the gentleman, if he is ambitious of being elected as a Justice of the Peace?

Mr. EMMETT. I stated that I might become ambitious of that honor, and that others of my fellow citizens might become ambitious of the honor; and that when we had attained it, I saw no reason why we should be prescribed from also becoming candidates for holding seats in the Legislature.

Now sir, I move to amend the section, by striking out all after the word "Judicial," so that the section will read:

SECTION 1. The powers of the Government shall be divided into three distinct Departments—the Legislative, Executive, and Judicial.

Then when we come to consider the articles on the Executive and Legislative Departments, we may provide for such restrictions as may be necessary, if any should become necessary, more than are provided for in this Article.

The CHAIRMAN. The amendment is not in order.

Mr. BROWN. I think the amendment proposed by the gentleman, is much better than the one I offered. I only made the proposition for the purpose of calling the attention of the Committee, to the point which I presented. If the Committee will allow me, I will accept the amendment of the gentleman, in lieu of my own. I presume that when we come to take up the Article on the Judiciary we shall prescribe all the powers and duties, and limitations which are required to be attached to the offices we shall create by that Article. The same may be done when we take up the Articles on the Legislative and Executive Departments. That, it seems to me is the proper place to provide for such restrictions if they are necessary at all. I do not think it is necessary for this Article to go further than merely to state that the powers of the State Government shall be divided into three distinct departments—the Legislative, Executive and Judicial. I hope the proposition suggested by the gentleman will prevail, and to enable him to offer it, I will withdraw my amendment.

Mr. EMMETT. I then offer the amendment, which I proposed, to strike out all after the word "Judicial" in the section.

Mr. SHERBURNE. I really hope that the amendment will not be adopted. It seems to me that there is something in the wisdom of the past, some safety in precedent that we should have some

consideration for in framing our Constitution. It has always been thought wise, that the different branches of government should be kept distinct, and that is the object of this provision, which is always found in the Constitutions of all the States.

Now sir, there is not much danger of excluding good men from office. There is much more danger of getting poor ones there. There is not much danger in saying that a man shall hold but one office. There may be greater danger in saying, he may hold two. I trust we shall always be able to get good men for all the offices we have to fill, and only one in each. I hope the Convention will not keep out of sight the fact that each department of the government shall be kept separate and distinct in itself. Now sir, I ask what objection can there be to incorporating in the section, language like this :

And no persons belonging to or constituting one of these departments, shall exercise any of the powers, properly belonging to each of the others, except in the instances expressly provided in this Constitution.

It is a good idea to lay down the rule in the first place which excludes all, and then if we find that in some instances men are competent to fill two offices, let them be designated as exceptions, and not allow them to constitute the rule.

Mr. FLANDRAU. The general rule of keeping separate and distinct, the different branches of government is undoubtedly correct ; but in a country like America, there will undoubtedly instances occur—there is hardly a man on this floor, who cannot bring to his mind instances, where in sparsely settled counties the best men have accepted the offices of Judge of Probate, and Justice of the Peace, at a sacrifice of their own personal inclinations because there were no competent men wishing these offices. Now when these men have accepted the offices, under circumstances like these, I want to know if it is right to exclude them from being elected to other offices ?

Mr. SHERBURNE. I did not include Justices of the Peace and Judges of Probate in the category at all. I shall be in favor of allowing these officers to be eligible to places in the Legislative and Executive Departments. I do not think they have ever been considered in a Constitutional sense as belonging to the Judiciary at all.

Mr. FLANDRAU. I do not think the gentleman from Ramsey and myself disagree in the least. I say, let there be a general rule requiring these departments of Government to be kept distinct, and let the exceptions be named in favor of particular classes of officers. There is no doubt that these officers as originally constituted in England—where justices were merely conservators of the

peace, did not come within the judicial departments in any legal sense. But, sir, under the practice of this country, they have come to settle, judicially, more than half the litigation of the country. I have no doubt that more than half the property which undergoes judicial cognizance, is in sums of less than $100, in which case the suits are tried before a Justice's Court. With such a state of things existing, they must necessarily be made a part of the Judiciary, and are so included in the Constitutions of most of the States. Now, sir, when a man has sacrificed his interest, and his convenience and wishes, for the good of the community, and has accepted the appointment of Justice of the Peace, I do not think it is right, when he is the choice of the people for a higher office, that he should be excluded. A seat in a Justice's chair is not an honor very much sought by anybody, and still, in many cases, the people will demand that good men shall fill it.

Now, sir, I wish to say a word in reference to the amendment which is before the Convention. I am in favor of the amendment of the gentleman from Sibley (Mr. BROWN) as originally offered, and which, if withdrawn, I renew, and opposed to the amendment of the amendment. I think the exceptions which the gentleman proposes had better be adopted. Then, when we reach the Article on the Judiciary, if we incorporate Justices of the Peace and Judges of Probate as a part of the Judiciary, as I have no doubt we shall, the exceptions will be just what we want to provide for. If, on the contrary, they are not adopted as a part of the Judiciary, then the exceptions will become unnecessary, and they can be pruned out when we come to put the various parts of the Constitution together; of course occasional changes will become necessary to make all the parts harmonize. I shall vote against the amendment of the gentleman from Ramsey, (Mr. EMMETT) and in favor of that originally offered by the gentleman from Sibley.

Mr. M. E. AMES. I have listened with a good deal of attention to the arguments which have been made, *pro* and *con*, for the purpose of ascertaining or judging for myself if there was any well formed objection to it; for if there was, I would as willingly amend it as any gentleman upon this floor. But as I said before, this is a very common provision, substantially the same as is found in the Constitution as far, as I recollect, of every State in this Union, certainly in every one which has undergone a recent revision. Since I before alluded to the subject, a gentleman has placed in my hand a paper published at the Capital of Iowa, dated on the 16th of last month, containing the Constitution recently adopted in that State,

where I find almost identically the same language. It is in these words:

Sec. 1. The powers of the government of Iowa shall be divided into three separate departments: The Legislative, the Executive, and the Judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any function appertaining to either of the others, except in cases hereinafter expressly directed or permitted.

That is from the Constitution of Iowa, which has been recently formed, and upon which they are voting to-day.

The same provision, in almost the same language, the framers of the Constitution of the United States also saw fit to insert into that instrument. And now, sir, in regard to the objections raised against this Article, I say without fear of contradiction by any legal gentleman, that Justices of the Peace and Judges of Probate are not included within the Judiciary Department, and never have been so considered in any State. Sir, the proposition is new and novel indeed. If gentlemen will produce any precedents to support it, if they will produce any authorities, any case which has been adjudicated by any tribunal whatever to show that Justices of the Peace or Judges of Probate are a part of the Judiciary of any State, I will concede the whole ground. There is just as much reason for classing the Sheriff of a county as belonging to the State Executive Department. Sir, a Justice of the Peace under our present organization, is merely a local officer and nothing else. His jurisdiction is co-extensive with the limits of the District in which he is elected. Under the organization of a State Government their jurisdiction is still narrower. They are then mere township officers, and nothing beyond that.

In respect to Judges of Probate, I suppose their powers may very possibly be conferred upon a court of record, and the office will not exist, but if it is authorized, it will exist as a mere creation of statute, and is no more a part of the Judiciary than are Justices of the Peace.

But even if they were a part of the Judiciary, if the Committee on the Judiciary should report in favor of making them by the express terms of the Constitution a part of the Judiciary, still this, I contend, is not the place for the amendment which the gentleman has introduced. It should either come under the head of Miscellaneous Provisions or Qualifications. But, sir, I say again, that no such provision is necessary. If there were any precedent for it, if the doubt had ever been raised in the practice under any Constitution as to the eligibility of these officers to seats in the Legislature, then such a provision would be eminently proper, but the

clause which the gentleman from Sibley suggests is a novelty nowhere else to be found.

Again, I agree with certain gentlemen who have spoken here, that it is not very important that one man should hold more than one office, and taking the construction which gentlemen have placed upon the rank of Justices of the Peace as correct, if any man holding that office is so prominent that the citizens of his locality wish to send him to the Legislature, and he wants to go, I think it will be no great hardship for him to resign his office as Justice of the Peace, after he is elected, and before taking the oath of office as a legislator. I take it that it would be no more than the public good required, that he should vacate his office during his absence in attendance on the Legislative sessions, and allow it to be filled by some other man. I believe it is a good principle that when a man desires promotion or election to a higher office, he should resign his first.

Mr. CHAIRMAN, it has from the first been a settled principle in the policy of our Government, that the exercise of the duties of the different departments shall be kept entirely separate and distinct, and that is the object of the last clause of the Section. The Section itself has two objects to attain. The first is to prevent the Legislature from encroaching upon the Executive or Judicial Departments, assembled as a body, in their official capacity, and *vice versa* to prevent the Executive and Judiciary from encroaching officially upon the Legislative functions. It is also to prevent a member of one of the Departments individually from belonging to another, and in this manner exercises control over it; as if, for instance, you were to elect to the Legislative Assembly, the Secretary of State or Attorney General, and perhaps two-thirds the Executive officers of the State, enough to control the action of that body; for any man who occupies so high position is generally a man of sufficient standing to be able to command votes enough to elect him to a seat in the Legislative Assembly. On the other hand, if the members of the Legislature were eligible to office, or to appointment while retaining their seats as legislators, what control might not the Governor have over the Legislative Department? It is for the purpose of shutting the door—if I may use the expression—against that sort of amalgamation, against the exercise of that kind of improper influence, either as a corporate body or as individuals, of one Department of the Government upon another. It is upon these views that other States have deemed it wise to insert such a provision as this into their Constitutions; and the Committee having this matter in charge, acting upon the same line

of reasoning and upon the precedents before us, have adopted the provision which is before this body. I hope the Article will not be amended as is proposed. I would rather see it stricken out *in toto* from the Constitution, than to have it mangled in the shape the amendment would have it.

Mr. WAIT. I would like to ask the gentleman from Ramsey to what Department of Government Justices of the Peace and Judges of Probate belong to, if it is not to the Judiciary?

Mr. M. E. AMES. I reply to the gentleman from Stearns. I will state that they belong to the township and county organizations, and not to any Department of the State Government.

Mr. BROWN. If I was not thoroughly convinced of the manifest impropriety of the Article as it stands, the remarks of the Chairman of the Committee, who has just taken his seat, and the instance quoted by him, has convinced me beyond a doubt. Why, sir, does not the gentleman know that the Constitution of Iowa which he quotes from, was framed by a Black Republican Convention, and is repudiated by the Democratic party in the State?

Mr. M. E. AMES. Do they repudiate it on account of this provision?

Mr. BROWN. Not this provision alone, but this is one of the provisions I have no doubt on which they oppose it. Now, Mr. CHAIRMAN, the gentleman from Ramsey holds that Justices of the Peace are not judicial officers and do not belong to the Judiciary of the State, because their jurisdiction does not extend over the entire State. The same argument would include the District Court from the Judiciary of the State for the jurisdiction of no Judge of that Court is co-extensive with the State. A Justice of the Peace has jurisdiction over the limits of the District for which he is elected, in the same manner as the District Judge has jurisdiction over the District for which he is elected. He has jurisdiction over the same class of cases which come under the jurisdiction of the District Court, only involving sums of a less amount. The trials are conducted in exactly the same manner before a Justice of the Peace as before a District Court. Appeals may be taken from the Justice's Court to the District Court, in the same manner as they may be taken from the District Court to the Supreme Court. I can see no distinction. They both belong equally to the Judiciary Department. They are not, properly speaking, parts of the Judiciary of the State, because the jurisdiction of neither of them is co-extensive with the State.

Now, sir, I am opposed to the insertion of any provision into this Constitution upon which there is any doubt as to its meaning. If

Justices of the Peace are not to be regarded as a part of the Judicial Department, I want that fact to be made manifest in unequivocal terms. If it is desirable that Justices of the Peace should be excluded from the right to hold office in any other branch of the government, I have no objection. I believe that the duties of one office are as much as a man can perform well at one time; but I want it distinctly understood, so that every one may read as he runs in reference to the matter. I want that there shall be no possibility of a doubt placed upon any portion of the Constitution which we shall form.

I think if the amendment of the gentleman from Ramsey (Mr. EMMETT,) is adopted, we can best provide for the officers under the head of each department as we come to consider the Articles upon the respective departments of government. We can prescribe such limitations and qualifications as may seem most expedient, and the whole matter will be best disposed of in that way.

Mr. GORMAN. I am inclined to think the gentleman is right, and I am inclined to think he is wrong. The gentleman has given us an argument on both sides of the question. He says in the first place, that the Iowa Constitution is wrong. He says that Justices of the Peace are a part of the Judiciary of the State, and yet he is in favor of the principle that no man should hold more than one office.

Now, sir, in my opinion, that is precisely what this Article is intended to accomplish. It is intended that no one of the officers exercising functions under one department of the government, shall exercise any of the functions which belong to another department. If a man belongs to the Legislative department, for instance, this Article is intended to prevent him from exercising the duties of Governor, or Auditor, or Attorney General, or any of the duties appertaining to any of the offices in the Executive department. If he desires to fill an office belonging to another department of government, he must first resign the office he already holds.

Mr. BROWN. The gentleman takes precisely the same view of the matter which I expressed. I do not hold that a man should be allowed to hold two offices at the same time; what I want to arrive at is, that there shall be no doubt in the construction of the Article we propose to insert.

Mr. GORMAN. I understand the position of my friend from Sibley. He wants this Constitutional Convention to resolve itself into a high court of judicature to decide all questions of jurisprudence which may arise under the Constitution. But sir, let me get through with the remark I was making. Shall an executive officer,

while exercising the functions of his office, and drawing the pay of the office, be elected to fill another official position? I say no, and the people will say no, as sure as you live. Would you allow a member of the Legislature exercising the duties of his position as such, and drawing his pay as such, also to fill the position of judge or any other office in the Judicial Department, and at the same time hold an office in the Executive Department? It is to prevent just such practices as this, that this Article has been framed. I do not care whether the man is Probate Judge, Justice of the Peace, or what he is, so long as he continues to discharge the duties of his office and draw the pay, I say he should not be elected as Governor, Secretary of State, Auditor or to any other office, for he cannot discharge the duties of both efficiently. It is one of the principles of this government that the people should allow as little power to go out of their own hands as possible, and for that reason, you should not allow a man to hold the powers of two offices, one of which he may use in connection with the other; as for instance, you should not permit a man to assist in making the laws of which he is to adjudicate, himself.

Sir, the Article is right as it stands. The gentleman from Sibley has objected to it because there was a provision similar in character, inserted into the Iowa Constitution. Sir, the gentleman should recollect that there were Democrats as well as Republicans in the Convention which framed the Constitution of Iowa, and that although the Republicans had the majority in the Convention it is still very possible for Democrats and Republicans to agree upon great fundamental principles of government like this.

I am in favor of making the application of the principle general, without exceptions. If the officers of Justice of the Peace and Judges of Probate come within the provision, let them be included with other officers in the same limitations. I have always understood the rule as established by the Courts, to be that, where an officer performed Judicial functions of which he kept an official record, as the Judge of Probate does to a certain extent, he was a Judicial officer; but as I said, I am ready to carry out the principles fully. If a man holds even a ministerial office and draws its pay, I say he should be confined to that and not allowed to hold another office, unless he resigned the first. These are the views which I entertain upon this question.

Mr. EMMETT. Even after the question has been argued to a very considerable length, I feel it to be my duty to add a few words to what has been said. I do not want to thrust myself upon

the Convention, but I think it the duty of every member to see that he is placed in a proper position.

Now sir, so far as the remarks of the last speaker are concerned, I agree with him perfectly, and I think no member of the Convention has expressed a different opinion in respect to the policy of allowing one man to hold two offices, except under particular circumstances. The only difference of opinion is in respect to the exceptions it is proper to make. Now sir, we do not want an Executive officer to exercise the functions of a Judicial office, nor *vice versa*.

It has been suggested that if these qualifications and limitations upon the several officers of government provided for in this Constitution were inserted into the respective Articles to which they belong, this provision could be subsequently stricken out; but sir, it seems to be admitted that it is proper to make these exceptions in the Articles on the several departments, and I ask where is the necessity or advantage of making them again and again? The object we all want to arrive at is the same. The only difference is in the manner of reaching it. Now sir, it seems to me that it is sufficient in this Article, to simply state that the powers of government shall be divided into three distinct departments, and then have each department to be provided for in the Article relating to it when we take it up for consideration.

I again repeat that the very fact of the difference of opinion in the construction of the latter clause, which I propose to strike out, is sufficient in itself to induce us to reject it. If the amendment of the gentleman from Sibley be adopted, excepting Justices of the Peace and Judges of Probate, there may be other officers which we also ought to except, perhaps Registers of Deeds and Sheriffs. The very fact of its difficulty of construction should be sufficient to induce us to reject it, and make a plain unmistakable provision on the subject in another portion of the Constitution.

Mr. SETZER. I will simply say in reply to the gentleman from Saint Paul, that in my opinion one of the great objects to be accomplished by such a provision as this, has been left out in the arguments which have been made. Provision should be made, not only that the officers of the different departments should not be elected to places in other departments, but provision should also be made that the different departments should not interfere with each other. I will state a circumstance which occurred in the Legislature of this Territory. A motion was made to reinstate a lawyer who had been expelled from Court. The motion did not prevail, but there were lawyers who agreed that the Legislature had the power to

reinstate him, in violation of the will of the Judiciary, which had expelled him. Now sir, I want to provide against any such possible occurrence in future. I think the Judiciary should not be allowed to interfere with the Legislature, nor the Legislature with the Judiciary, nor the Executive with either department. I have no objection to Justices of the Peace being elected to the Legislative Assembly, but I am opposed to any part of this section being stricken out, for I want to see all the restrictions which it embodies retained in the Constitution.

The motion to strike out was not agreed to.

Mr. BROWN. I now move to strike out of the Article the words, "except as expressly provided in this Constitution."

This Committee has decided that no person belonging to one department of the government shall exercise any of the duties belonging to any other department; and if we are going to make that announcement at all, I want no exceptions. Let us go the whole figure and say in unequivocal terms that no person belonging to one department of the government shall be eligible to office in another.

Mr. SIBLEY. I hope the amendment will not be adopted. It strikes me the Committee have incorporated in this section almost precisely what is contained in the Constitutions of most of the States, and that we had better have the language just as we found it, unless there is some great principle to enunciate, not incorporated in the Article, which it is desirable to enunciate there. Now, sir, this body has, in the vote it has just taken, refusing to strike out the portion which the gentleman moved to strike out, declared in favor of the general principle enunciated in the section. It has not said that there should be no exceptions to the rule. There may be some exceptions which we may find it wise to make hereafter. There may be some officers besides Justices of the Peace and Judges of Probate, that we shall find it advisable not to hold to the rule we have here laid down, as we progress. I think this whole discussion has arisen at an improper time. I am in favor of the general rule, but I am not prepared to say at this time what exceptions it may be proper to make, and I do not want to put it out of our power to make such exceptions as we may hereafter find necessary to make. I hope the amendment will be voted down.

The amendment was not agreed to.

On motion of Mr. SETZER, the Committee rose and reported the Article to the Convention without amendment, and with the recommendation that it be adopted.

The Article was then referred to the Committee on Phraseology and Revision.

PREAMBLE AND BILL OF RIGHTS.

On motion of Mr. SETZER, the Convention resolved itself into Committee of the Whole upon the Article on the Preamble and Bill of Rights, Mr. HOLCOMBE in the Chair. The following is the Report of the Committee:

PREAMBLE.

We, the People of Minnesota, in order to form a State Government, and to secure and perpetuate the blessings of Liberty, do ordain and establish this Constitution.

BILL OF RIGHTS.

1st. Government is established for the security, benefit and protection of the People, in whom all Political Power is inherent, together with the right to alter, modify or reform such Government, whenever the public good may require it.

2d. No member of this State shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers.

3d. Neither Slavery nor involuntary servitude, unless for the punishment of crimes, shall ever exist or be tolerated in this State.

4th. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State to every person; and no person shall be rendered incompetent as a witness on account of his opinions on matters of religious belief, and no religious tests shall ever be required as a qualification for any public office; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

5th. The right of Trial by Jury shall be secured to all, and remain inviolate forever; but a Jury Trial may be waived by the parties in all civil cases, in the manner to be prescribed by law.

6th. The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in case of rebellion or invasion, the public safety may require it. Excessive bail shall not be required, excessive fines imposed, nor shall cruel and unusual punishments be inflicted.

7th. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial Jury of the County or District wherein the crime shall have been committed, which County or District shall have been previously ascertained by law; the right to be heard, and defend in person or with a counsel; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him, and to have compulsory process awarded.

8th. No person shall be held to answer for any criminal offence, unless on the presentment or indictment of a Grand Jury, except in cases of impeachment, and in cases cognizant before Justices of the Peace, and in cases of Militia when in actual service, and the Land and Naval forces in time of War. No person shall be subject to be twice put in jeopardy for the same offence; nor shall he be compelled, in any criminal case, to be a witness against himself; and in all cases, before conviction, the accused shall be bailable by sufficient sureties,

except for capital offences, when the proof is evident or the presumption great.

9th. No law shall be passed abridging the right of the people peaceably to assemble to consult for the common good, to instruct their Representatives, and to petition the Government or any department thereof.

10th. Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right, and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all original prosecutions or indictments for libel, the truth may be given in evidence to the Jury; and if it shall appear to the Jury that the matter charged as libelous be true and was published with good motives, and for justifiable ends, the party shall be acquitted; and the Jury shall have the right to determine the law and the fact.

11th. No bill of attainder or *ex post facto* law, or law impairing the obligation of contracts, shall ever be passed.

12th. Foreigners who are, or who may hereafter become, *bona fide* residents of this State shall enjoy the same rights in respect to the possession, enjoyment and inheritance of property, as native-born citizens.

13th. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue but on probable cause, supported by oaths or affirmations, particularly describing the place to be searched, and the persons and things to be seized.

14th. Treason against the State shall consist only in levying war against it, adhering to its enemies or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or on confession in open Court.

15th. No person shall be imprisoned for debt in any civil action on mesne or final process, unless in case of fraud, and no person shall be imprisoned for a militia fine in time of peace. A reasonable amount of property shall be exempt from seizure or sale, for payment of any debt or liability incurred thereon; the amount of such exemption shall be determined by law.

16th. Private property shall not be taken for public use without just compensation therefor.

17th. The military shall be subordinate to the civil power, and no standing army shall be kept up in this State in time of peace.

18th. All lands within this State are declared to be allodial, and feudal tenures of every description, with all their incidents, are prohibited. Leases and grants of agricultural land for a longer period than fifteen years, hereafter made, in which shall be reserved any rent or service of any kind, shall be void.

19th. All lands within this State, the title to which shall fail from defect of heirs, shall revert or escheat to the people.

20th. The enumeration of rights in this Constitution shall not be construed to deny or impair others retained by and inherent in the people.

Mr. BROWN offered the following as a substitute for the "Preamble."

The People of Minnesota Territory, having the rights of admission into the Federal Union, consistent with the Constitution of the United States, and the laws of Congress approved March 3rd, 1857, entitled "an act to enable the Peo-"ple of Minnesota to form a Constitution and State Government preparatory to "their admission into the Union on an equal footing with the original States," in order to establish justice, promote the welfare and secure the blessings of liberty to themselves and to their posterity, do ordain and establish the follow-

ing Constitution and form of government,—and do mutually agree with each other to form themselves into a free and independent State by the name of the State of Minnesota. And they do hereby ratify the boundaries assigned to such State by the act of Congress aforesaid, which are as follows to wit: Beginning at the point in the centre of the main channel of the Red River of the North, where the boundary line between the United States and the British Possessions crosses the same; thence up the main channel of said River to that of the Bois de Sioux River; thence along the main channel of said River to Lake Traverse; thence up the centre of said Lake to the Southern extremity thereof; thence in a direct South line to the head of Big Stone Lake; thence through its centre to its outlet; thence by a due South line to the North line of the State of Iowa; thence along the Northern boundary of said State, to the main channel of the Mississippi River; thence up the main channel of said River, and following the boundary line of the State of Wisconsin until the same intersects the St. Louis River; thence down the said River to and through Lake Superior on the boundary line of Wisconsin and Michigan, until it reaches the dividing line between the United States and the British Possessions; thence up Pigeon River, and following said dividing line to the place of beginning, with concurrent jurisdiction on the Mississippi and all other Rivers and waters bordering on the said State of Minnesota, so far as the same shall form a common boundary to said State and any State or States now, or hereafter to be formed or bounded by the same.

Mr. MEEKER. I would enquire of the gentleman whether in that Preamble he has followed the boundary as described in the Enabling Act?

Mr. BROWN. Yes sir.

Mr. BECKER. It strikes me Mr. CHAIRMAN, that is the most extensive Preamble that I ever heard of. It is not only a Preamble, but it is almost an entire Constitution. [Laughter.]

I do not know whether the gentleman intended to intrude upon the jurisdiction of any other Committee, but I will inform him there is another Committee which has this matter of Boundary specially in charge, and who will be prepared to report to the Convention upon the various propositions submitted by Congress. For one, I do not desire to see that Committee turned out of employment. Some of us have a desire to serve our country in that direction, and hope the amendment will not prevail.

Mr. M. E. AMES. I do not understand the precise shape in which this amendment comes before us; I rise to inquire whether it is offered as a substitute for the whole declaration of rights or as a substitute for the first section? [Laughter.]

Mr. BROWN. For the information of the gentleman I will state that it is offered as a substitute for the Preamble only. I will also state that it was not offered with a view of infringing upon the rights or duties of the gentleman from St. Paul, (Mr. BECKER.) As we have been discussing questions of precedent, I will state that I find in the Constitutions of quite a large number

of the States, and particularly of the Western States, the Boundary limits are defined in the Preamble, and I believe it is the proper place. I think this is certainly as proper a place to bring the matter before the Convention as any other, though I confess that when I offered the amendment, I had not reflected that the subject had been referred to another Committee.

Mr. MURRAY. I will say in explanation that the Committee having the matter of the Preamble and Bill of Rights in charge, found one or two Constitutions which stated the Boundaries of the State in the Preamble, and some of the Committee were in favor of inserting them into our report, but after consideration, and inasmuch as the subject had been specially referred to another Committee, it was thought best to make no reference to the subject. There are certain gentlemen belonging to this body who are very solicitous of placing themselves before their constituents and the country on this Boundary question, and we were desirous that the question should come bofore the Convention in such a way as to give them an opportunity of spreading themselves. [Laughter.]

Mr. MEEKER. I could not for my life see the necessity of raising a Committee to take this subject into consideration, but it has been referred to a Committee raised to take this with the propositions made by Congress to the people of Minnesota in charge. It is an excellent Committee, and I have no doubt they will do the subject entire justice. But it does seem to me that so much of the matter referred to that Committee as relates to the Boundery of the proposed State, ought to appear in this Preamble to the Constitution of the State. It is certainly the most proper place in which to proclaim the name and boundary of the State of Minnesota. If there is any way, which it can be inserted therein through the Committee on the subject, at some future time, I have no objection, but I think it should come in here.

Mr. MURRAY. The gentleman from Hennepin (Mr. MEEKER) is one of the Committee on Phraseology and Revision. It will be in the power of that Committee to transfer it to the Preamble.

Mr. BROWN. As I have already stated, I did not reflect when I offered the amendment, that the subject had been referred to a special committee, but I certainly think with the gentleman from Hennepin that here is the proper place for the boundaries of the State to be defined. This question is one which this Convention should, in my opinion, decide before any other connected with the Constitution. A great deal of the wording of the Constitution itself will depend upon the boundaries we shall adopt. The Committee on Apportionment, and various other of the committees charged

with duties by the Convention, cannot act until the boundaries are established; and it was with a view of enabling those committees to act that I have proposed the substitute embracing the boundary lines prescribed by Congress. I have offered it, however, in such shape as to place it in the power of any gentleman to move to amend by substituting any other boundary line which he may see proper, and giving such views upon the subject as he may deem it his duty to present. But, while I consider this the proper place in which to insert the boundary lines of the proposed State, and while I submit that these boundaries must be fixed definitely before other subjects of importance can be acted upon by the committees having them in charge, nevertheless, as the gentleman from St. Paul (Mr. BECKER) has given us the information that his Committee will be able to report in a short time, and as several gentlemen are anxious that the report upon the subject shall emanate from that Committee, with the consent of the Convention, I will withdraw the substitute.

Mr. SETZER. I object to the withdrawal. The boundaries of the State should certainly be in the Preamble; and, if it is necessary that the report should come from the Committee on the Name and Boundaries of the State, let us refer the Preamble, together with the amendment, to that Committee.

Mr. BECKER. I have a very different idea of a Preamble from the gentleman from Washington, or the gentleman who offered the substitute. My idea of a Preamble is: something which goes before the Constitution—something that introduces the Constitution. It is no part or parcel of the Constitution itself. I have before me the Constitutions of several of the States. The Preamble to that of the State of New-York reads:

"We, the People of the State of New-York, grateful to Almighty God for for our freedom: in order to secure its blessings, do establish this Constitution."

That of the Missouri Constitution reads:

"We, the People of the State of Missouri, by our Delegates in Convention assembled, do ordain and establish the following Constitution."

Now, sir, that is a Preamble, and that is the office of a Preamble. It is merely to introduce the Constitution. On looking to the Constitution of Michigan itself, I find that the first section establishes the name and boundaries. You might just as well go on and define what shall be the duties of the Governor here—and I ask the gentleman if he would consider that the proper office of a preamble? I am opposed to the substitute.

Mr. BROWN. The gentleman's arguments have not changed my views upon the necessity and propriety of designating the name and boundaries of the State in the Preamble to the Constitu-

tion. The Preamble as reported commences: "We, the People of "Minnesota." Now, what constitutes Minnesota?

Mr. BECKER. The first Article of the Constitution should designate.

Mr. BROWN. No, sir. In my opinion we should say: "We, "the People of Minnesota" [within certain limits] "do ordain and "establish this Constitution." Otherwise, it may be "the People" within any limits whatever. I hold that, in order to have a proper understanding of the Preamble, it should designate who are the people—living within what limits, who thus join together to form a Constitution.

Mr. FLANDRAU. I am opposed to this being inserted into the Preamble, because I do not think it is the proper place for it, and I have listened in vain to hear any gentleman show one reason why it should go there. I think the argument of the gentleman from Sibley (Mr. BROWN) upon this question is like a good many other arguments that gentleman makes. When he has made a motion which he is satisfied is an improper one he draws upon his imagination to bear him out. Technically speaking, I do not think the Preamble is any part of the Constitutional law: it is merely placed there to make it read better—for the purpose of furnishing something to start with. The establishment of the boundaries of the State are an important portion of the Constitution and should be embodied in the instrument itself. It should constitute Article One of the Constitution. Mr. CHAIRMAN, I repeat that I think the Preamble is not the proper place for the insertion of the boundaries of the State. I want to see that subject come up in a regular report of a committee, and come up in a shape in which it may be fairly met.

Mr. SHERBURNE. If it is proper that the boundaries of the State should go into the preamble, then it is not necessary that they should go into the Constitution at all. The Preamble is a mere statement of the subject matter which follows, similar to an enacting clause or the title of a bill, a recitation of facts or reasons perhaps, which may serve to make what follows more intelligible. Such statements in former times, preceded the enactment of laws. Now, sir, if it is proposed that we should put these boundaries in the Constitution for the purpose of making them valid, I tell gentlemen that to put them in the enacting clause, will make them of no binding effect whatever; for say what you will, the Preamble is not a part of the Constitution. Suppose we were to mark out different lines from those which appear in the Enabling Act, how would that appear in the Preamble? It does not necessarily fol-

low that those who are making this Constitution should be represented by these exact boundaries. Sir, if we intend to establish these lines, we must put them in the Constitution and not in the Preamble. It is said there are precedents for this. There may be precedents for other errors, but I say the idea that you can establish a boundary line by a Preamble, is absurd upon its face. I hardly think the gentleman from Sibley can be serious in offering it.

Mr. MEEKER. Under the impulse of the moment, I thought the Preamble might be the proper place to establish the boundary lines of the State, and I am satisfied that it is. It is true there are precedents to the contrary. The gentleman from Ramsey, (Mr. BECKER,) read from the Preamble of the Constitution of the State of New York; but sir, the Constitution of New York not only does not contain the boundaries in the Preamble, but they are not to be found in the body of the Constitution. Why? Because the boundaries of the State of New York was a matter of national notoriety. There was no controversy in relation to it. Such I think is the fact in reference to the Constitutions of all the New England States and most of the older States, whose boundaries are well established and settled. But in the new States, and particularly here, it is necessary that the limits of the State should be expressly fixed in the Constitution, because the boundary lines are a subject of controversy among the people themselves, and may become such in Congress. It has been a matter of controversy among us as to what should be the boundaries of the State of Minnesota. I believe that Congress has carried out the will of the people in proclaiming the boundaries which they have prescribed in the Enabling Act.

But, sir, I insist that the Preamble is just as much a part of the Constitution as is Article one or two, and I say that it is perfectly proper when it is proclaimed that "we, the people of Minnesota," do ordain this Constitution to say what people. Not the people of the Territory of Minnesota by any means, only a portion of them; then what portion? Why, those living within the boundaries designated by the Enabling Act. I say therefore, as I said in the start, that there is great propriety in announcing in the Preamble the limits of the State, which are ordained and established by the Constitution. I however, am not a stickler in the matter. I would not be guilty of the slightest discourtesy to the Committee on the Name and Boundary of the State, but whenever the subject of boundary has been decided by the Convention, I shall urge that the proper place to insert it is in the Preamble.

Mr. CURTIS. I am opposed to the substitute. I believe with other gentlemen who have spoken, that it is no part of a preamble to

incorporate Constitutional provisions in it. I think the course in referring this subject to a separate Committee was a correct one. The argument of the mover of the substitute proves too much. He is anxious to have a ratification of this important proposition at the very outset, and therefore places it outside the Constitution altogether. By reading the substitute, I find that for certain purposes, certain limits are adopted, and to establish justice, promote the welfare and secure the blessings of liberty to themselves and their posterity, they do ordain and adopt the following Constitution: What Constitution? You find that the main proposition is placed in the heading of the chapter. It would be like taking a proposition in Euclid, placing the results in the heading, and calling that proof. They wish a solemn recognition of their Boundaries, and, therefore, commence by putting them in the Preamble. Why, sir, there is neither sense nor propriety in the Preamble apart from the Constitution itself. The people of Minnesota, within certain Boundaries, do ordain and establish this Constitution. What Constitution? We have made no Constitution. We have merely spread upon the record our idea of the work we are about to carve out.

It strikes me that the main object of a Preamble is to enunciate the object, and it is merely the statement of the object for which the gentleman's Boundaries and all the other provisions which follow, are established. In regard to the fact that there are precedents for inserting the Boundaries in the Preamble, it strikes me that they are bad precedents, and precedents which should constitute the exception and not the rule. As I have said, my main objection to the substitute lies in the fact that the only legitimate object of a Preamble, is to introduce the work of the Convention, and when you go beyond that, you might as well insert the Declaration of Independence, which is a very good document, to which we all subscribe. You might as well insert the Article on the Judiciary, or any other important article upon which we are to act, as to insert these Boundary Lines. The preamble, as I apprehend, should be short, succinct and unambiguous. It should simply state the subject of the action of the Convention, and serve merely as an introduction to the Constitution itself.

Mr. SIBLEY. It strikes me that if we are going on at this rate, it will take us a good while to get through with the Constitution. The gentleman from Sibley, (Mr. BROWN,) this morning, submitted an entirely irrelevant proposition, upon which the Convention had a long discussion; and now, the same gentleman comes in with a proposition, to take away from the charge of one of the Standing

Committees a subject—which was deemed of sufficient importance by the Convention, to raise a Committee of the full number of seven, for the special purpose of considering—notwithstanding the statement of the Chairman of that Committee, that they have the subject under consideration and will soon be ready to report. Now, sir, I have no disposition to discuss this question. The Preamble is evidently not the place to insert the Boundary Lines of the State, and I hope gentlemen will not again introduce matters where they do not belong, but allow them to come up in the regular manner.

Mr. BROWN. With all due deference to the gentleman, I hold that I have as good a right to settle in my own mind what is propriety in the introduction of propositions, as any other man upon this floor, and that the introduction of such subjects as I have deemed proper, is not a subject upon which I am to be castigated in this body. I introduced the substitute, as I stated before, believing this to be the proper place to introdace it, without reflecting at the time that the subject had been referred to another Committee. I still believe and other gentlemen of the Convention between that this is the place in the Constitution where these Boundaries should appear.

I introduced an amendment to another Article when it was under consideration this morning, believing it to be the proper place, in Committee of the Whole, to introduce such an amendment; other gentlemen thought differently. Of course I shall submit to the decision of the Convention, but I have simply done what I thought to be my duty in the matter.

On motion of Mr. MURRAY, the Committee rose, reported progress, and asked leave to sit again.

Leave was granted.

On motion of Mr. MURRAY, at one o'clock the Convention adjourned.

NINETEENTH DAY.

TUESDAY, August 4, 1857.

The Convention met at 9 o'clock, A. M.

The Journal of yesterday was read and approved.

The PRESIDENT appointed Messrs. DAVIS, SETZER, and BROWN, a Committee to ascertain upon what terms the proceedings and debates as officially reported, can be published from day to day pursuant to the resolution of yesterday.

On motion of Mr. SETZER a call of the Convention was ordered.

On motion of Mr. WARNER, Mr. PRINCE was excused from attendance this day.

On motion of Mr. A. E. AMES, further proceedings under the call were dispensed with.

Mr. MEEKER from the Committee on Amendments to the Constitution, presented a report which was laid on the table.

Mr. SETZER moved that the daily hour of meeting in future be at 10 o'clock instead of nine o'clock. Mr. S. said that for the last two days the Convention had to wait until 10 o'clock for a quorum and we might as well meet at that hour.

Mr. BROWN enquired if the same difficulty would not arise if the hour were fixed at 10 o'clock. There were some members who would never be present at the opening of the session, whatever hour might be fixed.

The motion was not agreed to.

AMENDMENT OF THE RULES.

Mr. MURRAY offered the following resolution :

RESOLVED, That Rule 19th of the Rules for the Government of this Convention, be amended so as to read as follows :

"The preceding Rules shall be observed in Committee of the Whole, so far as applicable. A call for the yeas and nays, for the previous question, and a motion to adjourn, shall not be applicable, but a motion for the Committee to rise shall always be in order, and shall be decided without debate, but the journals of the proceedings in Committee shall be kept."

Mr. MURRAY said the resolution did not change the existing Rule except in reference to the right of a member to speak more than twice in Committee of the Whole. He proposed to apply the same Rule in this respect in Committee as in Convention.

The resolution was not adopted.

Mr. HOLCOMBE moved the adoption of the following additional Rule :

Rule 25. The President shall be required to vote on all questions, and on call of the yeas and nays, his name shall be called in alphabetical order as Mr. President.

Mr. BECKER thought the object of the proposed Rule was attained under JEFFERSON'S MANUAL.

The PRESIDENT said, under Congressional practice, the Speaker was required to vote only when there was a tie vote or when his vote would make a tie.

Mr. BROWN moved to amend by striking out the words, "in alphabetical order," and insert in lieu thereof the word "last."

The amendment was adopted.

The Rule as amended was then adopted.

CORPORATIONS OTHER THAN BANKS.

On motion of Mr. WARNER the Convention resolved itself into Committee of the Whole on the report of the Committee on Corporations having no banking privileges, Mr. BAASEN in the Chair, the following section being under consideration.

SEC. 4. Lands may be taken for public way, for the purpose of granting to any corporation the franchise of way for public use. In all cases, however, a fair and equitable compensation shall be paid for such land and the damages arising from the taking of the same. Any attempt on the part of the corporation, enjoying the right of way, in pursuance of the provisions of this section, to pervert its privileges from their legitimate construction, for the purposes of private speculation shall vitiate such right of way, and the lands shall revert to their original owner.

Mr. SETZER moved to amend section four by striking out all after the words "taking of the same," and insert in lieu thereof the following:

"But all Corporations being common carriers, enjoying the right of way in pursuance of the provisions of this Section, shall be bound to carry the mineral, agricultural, and such other productions or manufactures of the country on equal and reasonable terms, or on their refusal so to do, it shall vitiate such right of way and the lands shall revert to the original owner."

Mr. BROWN. I move to amend the amendment by inserting after the word "do" the words "without sufficient cause therefor," so that it will read "on their refusal so to do without sufficient cause therefor."

Mr. SETZER. I accept the amendment.

The amendment so modified was agreed to.

Mr. MEEKER offered the following substitute to section four:

"Private property shall not be taken for public use without just compensation."

Mr. MEEKER. This amendment provides an adequate remedy for the evil which it is sought to avoid. It is a part and parcel of the Constitution of the United States, and I hope it will be adopted.

Mr. SETZER. The language employed by the gentleman is already embodied in the Bill of Rights.

Mr. MEEKER. It is not in the Bill of Rights. The object I wish to attain, is to avoid legislation as much as possible. Some of the States have gone so far as to preclude all action of the Legislature on the subject. Now I imagine we do not want to preclude future Legislatures from prescribing penalties for non-compliance on the part of Corporations with their charters.

Mr. SIBLEY. I hope the amendment will not be adopted. We

are here to protect the rights of the people in this Constitution, so far as is practicable, without going into the details of legislation. Now, sir, we know that in some of the States, in consequence of their being a laxity in their Constitutional and Legislative provisions upon the subject of Corporations, Railroad Companies have taken it upon themselves to transcend by very far, the limits which were intended to be fixed in their charters. It is true that individuals have their remedies in the courts, but as has already been stated in the course of the discussion upon this subject, individuals do not like to enter into a contest in the courts with great moneyed corporations, and if they do, the advantage must necessarily be in favor of the Corporations.

A single instance has just been mentioned to me which has been the cause of much complaint. I understand that in certain instances Railroad Companies have refused to take certain articles into market for others than the company themselves; for instance, such as wood, which is absolutely essential to the convenience and comfort of the public, the company themselves making a speculation out of it by loading their cars with their own wood and taking it into market, thereby preventing a wholesome competition.

Mr. CHAIRMAN, I am not in favor of trammeling these Corporations more than is absolutely necessary, but I hope this Convention will take care to put such restrictions upon the Legislature and upon these Corporations as will prevent them in future from becoming instruments of oppression.

Now, sir, the clause which the gentleman from Hennepin, (Mr. MEEKER,) proposes to insert in lieu of this whole section, does not meet the case at all. It is a very proper provision to have inserted in the Bill of Rights. But, sir, the object of this Article is to restrict the Legislature within fixed limits, and not to enunciate merely great general principles. We propose to define what Corporations shall do and what they shall not do. After they have secured for themselves the right of way through the lands of individuals, in many instances without paying for them, they ought to be required to carry whatever products any person may desire to send over their road. I think it is wise to make such a restriction as is proposed by the gentleman from Washington, (Mr. SETZER,) and I hope the amendment of the gentleman from Hennepin will be voted down.

Mr. MEEKER. I will relieve the Committee from the necessity of any action upon my amendment by withdrawing it, for I observe that the same provision has been inserted into the Bill of Rights. I had been informed that it was not in the Bill of Rights, and there-

fore I offered it here. I have however one word to say in reply to the gentleman from Dakota, (Mr. SIBLEY.) He says this provision ought to appear in the Bill of Rights, and no where else. Now, I would inform the gentleman that in the first Constitution ever made on the American Continent deserving the name and honor of such an instrument—the Constitution of the United States—it is made a prominent provision in the fifth article in the body of the Constitution ; and I should think that WASHINGTON, MADISON and the honored names which are appended to that instrument, knew very well where to put such a provision. But it is not material to me where it is put ; and inasmuch as it is embodied in the Bill of Rights, I will withdraw my amendment.

Mr. STACY. I move to amend the section as amended, by striking out the word "equal" and inserting the word "equitable."

Mr. SETZER. I hope the amendment will not prevail. The language used was adopted after due deliberation to cover a certain class of cases. It was intended to prevent Railroad Corporations from establishing a higher rate of charges upon one kind of freight than another.

Mr. CURTIS. It strikes me that the amendment is a good one. Every one knows that all railroad companies charge different prices for different kinds of freight. They must charge more for bulky articles by the weight, to make their charges equitable.

Mr. MEEKER. It seems to me, that if we undertake to regulate the carrying business, and establish rates of charges in all their details for carrying produce on the railroads, we shall have our hands full. As I remarked before, I have no objection to this amendment as it stands, only that it is certainly entering into the details of legislation too much for a Constitutional Convention. Let the Legislature provide charters for the railroads, and then make such provisions as they may find necessary for requiring the the companies to carry out their charters. I do not think this is the proper place for such legislation.

Mr. BROWN. The gentleman is entirely mistaken if he supposes this section establishes a tariff of prices for carrying the different kinds of freight over railroads. It is simply establishing a great principle for the protection of the people, by re quiring railroad companies which receive their charters as common carriers, to conform to the requirements of their charters, and not become instruments of oppression and injustice instead of an accommodation to the public. I think the object sought to be obtained is one of great importance, and should be provided for in the Constitution. The only question is as to the use of such

phraseology as shall, while it protects the people, not do injustice to corporations.

The question was taken, and Mr. STACY'S amendment was disagreed to.

Mr. CURTIS. I am not prepared with an amendment, but I should like to see the section placed in such terms as to effect its object. It provides for carrying the "mineral, agricultural and "such other productions or manufactures of the country, on equal "terms." I suppose the term "of the country" means of the United States. Now, I think they should be required to carry imported products upon the same terms as those of this country.

Mr. SIBLEY. If the Committee will permit me, I wish to submit an amendment to strike out the word "equal" and insert "reasonable."

Mr. BECKER. If it be in order, I will move to strike out the whole section. It seems to me we are touching upon the powers and privileges of a legislative body. I cannot conceive what business this Convention can possibly have in regulating the prices of carrying freight on the railroads which may be constructed. I do hope we shall not incorporate any thing in the Constitution which shall look like legislation. If there is any great principle involved in this section which it is important to establish, let us insert it; but it seems to me wholly unnecessary. The whole principle involved is contained in the declaration of the Bill of Rights, that "private property shall not be taken for public uses "without just compensation or reward." Under that declaration it will not be in the power of a railroad corporation to obtain the right-of-way through the private property of any citizen without paying for it such just and reasonable compensation as a jury of his countrymen may award. I do not see what necessity there is for lumbering up the Constitution with anything beyond this by enunciating any other general principles respecting private property being taken for public uses. I hope the whole section will be stricken out.

Mr. SETZER. In reply to the gentleman from Saint Paul, I will say that we have just as good a right to restrict the Legislature here in respect to this subject as we had, a few sections back, to restrict them upon the subject of passing special acts. The gentleman says it is unnecessary to enunciate general principles with respect to taking private property for public uses. They may be general principles, sir, but they have been frequently invaded. Appraisers have been chosen who have fixed the damages at a fictitious amount, and the owners of the property received no compensation.

whatever for the property taken. The benefit accruing to the owner of the property from the construction of the road has been taken to be a sufficient compensation. Such a construction is a violation of the spirit of the Constitution, but in many instances it has been sustained by the Courts. If, then, corporations obtain the right-of-way through private property on the ground that they are for the public benefit, they should not be allowed to become an injury to the public by refusing to carry the products of the country through which the roads pass, as they have done in several instances, creating a monopoly for themselves and preventing a wholesome competition relative to certain products. Sir, we should just as much guard against such monopolies as against the monopolies which we undertook to prevent in a preceding section of this Article, when the subject of special legislation was under consideration.

The principal railroad routes in this Territory, or future State, extend from the extreme north to the borders of Iowa, and from the Mississippi to the western boundaries of the proposed State. They are expected to bring fuel from the mines of Iowa, and, in return, to carry back lumber from our northern pineries. Now, suppose these roads should take it into their heads to refuse to carry coal for any person or company except themselves. They could purchase it at reasonable rates, and, having a monopoly of the market, could sell it for high rates, making for themselves a profitable speculation at the expense of the public good. It is to protect the people against such monopolies that this section was drawn up, and I think it is the duty of the Convention to provide such protection.

Mr. MEEKER. I insist that I love the people as well as my friend from Washington, (Mr. SETZER,) and will go as far as he to protect them. But, sir, there is no effort being made upon the part of any body to deprive them of any right whatever. The gentleman says that heretofore, Corporations have evaded the laws, and have taken private property for public use without furnishing the proprietors of such private property just compensation. Now, sir, there are two kinds of compensation which have been recognized in the taking of the right of way for Railroad Companies. One is the actual payment of money, and the other is to set off the increased value of the property in consequence of the building of the road, against the property taken. This principle, that private property shall not be taken for public use without just compensation, as I have remarked, was first enunciated in the Federal Constitution, and has since been enunciated in the Consti-

tutions of nearly all the States. Its simple enunciation is all, in my opinion, that should be contained in the Constitution; leaving the Legislature to carry it out in its details. Is not the Legislature competent to provide the adequate remedies? I am surprised to hear the gentleman from Washington, who has so long been a a member of the Legislature, afraid of trusting the matter to the Legislature.

Mr. SETZER. I call the gentleman to order. If he wishes to have a personal collision I am ready for him, but he has no right to make personal allusions in debate.

Mr. MEEKER. I am surprised at the sensitiveness of the gentleman, statesman and legislator as he is. But, sir, I have only to say that no such provision as it is sought to insert here will cure the evils complained of. If Railroad Companies are allowed to violate their charters by refusing to carry the products of the country, no provision that we may insert in the Constitution will prevent them. It is the business of the Legislature to provide remedies for a non-compliance on the part of the Railroad Companies with their charters, and the subject has no proper place here. I am, therefore, in favor of the motion to strike out the whole section.

The motion to strike out the section was not agreed to.

Mr. A. E. AMES moved to strike out the entire section and to insert as follows:

SEC. 4. The property of no person shall be taken by any Corporation for public use, without compensation being first made or secured in such manner as may be prescribed by law.

Mr. BROWN. Either gentlemen do not comprehend the object sought to be attained by the section as it now stands, or else they take a great deal of trouble to beg it. The Constitution of the United States provides that no private property shall be taken without just compensation. That provision is binding upon us whether we enunciate it in our Constitution or not. It is as binding on us as if we had it in every paragraph in our Constitution. We cannot make it stronger. But what we want to get at, is to protect the people from the encroachments of Corporations.

Now, I will state a case: Suppose a Railroad were constructed from St. Paul, Minneapolis, Stillwater, or any other lumbering region to the coal fields of Iowa. The people owning property in the Big Woods, which it must necessarily traverse, would, of course, be anxious for its construction, because it would open a market for their timber, which could not otherwise be brought to market. The people owning Prairie Land through which the Road

would pass, would also be anxious for its construction, because it would open a channel of communication with the lumber regions of the North, and also furnish an outlet for their surplus products. The owners of the Big Woods and Prairie through which the Road would pass, would probably be willing to give the right of way in consideration of the enhanced value of their property from the construction of the Road. Now, suppose that after obtaining the right of way the Road should be put in operation, and the Company should say to the public, "We will carry no lumber or fuel, either "wood or coal, for you; none except that belonging to ourselves. "We will claim and possess, in spite of you, a monopoly of the "trade in wood, coal and lumber."

It is to provide against a contingency of this kind, that this section has been framed. That is what we want to get at, and the only question in my mind, is whether the language adopted will accomplish the object. We want to protect the people against the encroachments of Corporations, and at the same time not do injustice to the Corporations themselves. We do not want to say anything about the prices at which the Corporations shall carry particular articles, nor what they shall pay for the right of way; but we do want to provide that after having obtained the right of way, as public carriers, they shall be conducted for the public benefit, and that they shall not be made the means of creating a monopoly in any article of commerce carried over the Road.

Mr. TUTTLE. It seems to me that the section as it now stands, covers more ground than it is wise for us to assume. It is provided that any Railroad Company which shall refuse to carry any article of produce, shall vitiate the right of way. Now, suppose some Agent of a Company, without the authority or intention of the Company itself, should refuse to carry some article of produce, and a suit should be commenced, is the Company, in consequence of the unauthorized act of this Agent, to vitiate its right of way? Is the whole Road to be discontinued in consequence of such an offence? It seems to me it would be well to require the Road to incur some penalty, or pay some compensation for such refusal, but not to the extent of forfeiting their entire charter. I move that so much of the section as provides for vitiating the right of way be stricken out.

Mr. SHERBURNE. I do not know whether I shall oppose the motion to strike out or favor it; but there is a point which has sprung up in the course of the discussion this morning upon which I wish to make a single remark. It seems to have been taken for granted by this Committee that railroads have full power to carry

whatever they choose, and to discard whatever they choose. Now, I do not understand that they have any such right. I do not understand that they have the power to control the people to any such extent. It is true that there should be some limit in regard to their power of taxation, but they are common carriers, like all other common carriers. They have taken upon themselves that duty, and they are governed to some extent by the common law upon this subject. It may be well in this Constitution to oblige them in some form to charge equally or equitably, in order to prevent a monopoly; but further than that it appears to me totally unnecessary to go. If men want wheat carried on the railroad, the Company have no right to say they will not carry it. If the inhabitants say they want corn carried, the Railroad Company have no right to say they will not carry it. The only question is, whether they should not by some principle laid down in the Constitution be required to charge for such carrying a reasonable and equal rate. I like the original amendment of the gentleman from Stillwater, (Mr. SETZER,) to compel them to charge upon any one kind of article, one man equally with another, not the same price per pound or per square foot or square yard upon all kinds of freight, but that the taxes shall be equal and equitable between different parties upon each of the different kinds of articles to be transported. I can see no good reason for tying up their hands further.

In regard to the forfeiture of their charters in consequence of a single mistake or a single act of mal-administration, I agree with the gentleman who last spoke, that the penalty is too severe.

The amendment offered by Mr. AMES was not agreed to.

Mr. CURTIS moved to strike out of Section 4, as amended, the words "of the country."

Which motion prevailed.

Mr. SETZER moved to strike out of Section 4, as amended, all after the words "equal and reasonable terms."

Mr. BECKER. I should be in favor of the amendment if I could see the propriety of inserting any such Section into the Constitution of Minnesota. I do not suppose that any party can do wrong without being liable to damages for the wrong. There is not a plainer principle of law, and I can see no necessity for providing specially in the Constitution for this special case. These corporations are liable for wrong acts by the plainest principle of law, and we make them no more liable, we throw no stronger guards around the rights of the people by the insertion of a special clause to that effect.

Mr. SHERBURNE. The gentleman is certainly correct in his

statement. I see no reason why the whole provision should not be stricken out. The Legislature, certainly, would have full power to determine in what manner these corporations shall be liable.

Mr. SETZER's motion was agreed to.

The Section, as perfected, is as follows:

SEC. 4. Lands may be taken for public way, for the purpose of granting to any corporation the franchise of way for public use. In all cases, however, a fair and equitable compensation shall be paid for such land, and the damages arising from the taking of the same; but all corporations being common carriers, enjoying the right of way in pursuance of the provisions of this Section, shall be bound to carry the mineral, agricultural and other productions or manufactures on equal and reasonable terms.

Mr. SHERBURNE. I rise for the purpose of moving to re-consider the vote by which Section 2 was adopted in its present form. If I am correct in my recollection, it now stands with simply the words "No corporations shall be formed under general acts." I consented at the time, that the words "except for municipal purposes," should be stricken out, but after hearing remarks which were subsequently made, and after consideration upon the subject, I am not certain that we understand each other as to the meaning of the term, municipal purposes. I am satisfied that I did not understand it at the time I consented to its being stricken out in the same sense that many of the other members of the Convention understood it.

Now, sir, "municipal" may apply in its primary sense to the original formation and regulation of government which cannot take place under general laws. We can form no general laws by which we can lay down county lines. I referred the other day, in consenting to have the words "except for municipal purposes," stricken out, only to mere town and city charters. It is essential that there should be special laws for the purpose of laying off town and county lines, making regulations for voting, assessing taxes, &c. I therefore, if it is in order, move to insert at the end of Section 2, the words "except for municipal purposes." That will cover the whole ground. It is necessary that power to pass special acts should be given to the Legislature for these purposes, otherwise all counties, towns and precincts must be of the same size and form. The Legislature must have some power to control the matter. If the language applies only to city charters, it is well enough to have them formed under general laws, for while they are entirely distinct from corporations for mere business purposes, yet they are in one sense corporations, and I regard the matter of no special consequence, whether they were formed under general or special laws.

Mr. SIBLEY. I merely rise to suggest to the gentleman that he had better put his amendment in different language. As it now stands, it is clearly out of order. The Committee has by a distinct vote stricken out these words, and it is certainly not in order to move to insert them again.

Mr. SHERBURE. I rose to move a reconsideration, but it was suggested that I could move directly to insert the words, and I therefore adopted that form.

Mr. SIBLEY. I concur entirely with the gentleman in the propriety of his amendment. I only suggested that it should be put in a different shape, because it looks badly on record.

Mr. BECKER. I would suggest to the gentleman that when the report of the Committee of the Whole is made in Convention, it will be perfectly competent for him to offer his amendment there.

Mr. SHERBURNE. It is immaterial to me how the object is accomplished. I will withdraw the amendment with a view of offering it in Convention.

Mr. EMMETT. I move to strike out Section 2, and insert the following as a substitute :

SECTION 2. The Legislature shall provide by general laws for the formation of corporations, and may for municipal purposes, and in cases where the objects of the corporation cannot be attained under general laws, create corporations by special acts, but when created by special act said corporations shall be governed by general laws.

The amendment was not agreed to.

Mr. WARNER. I move the following as an additional Section:

SECTION 5. The person or persons incorporated shall be liable for the debts of the Corporation.

Mr. SETZER. This is precisely the same as a provision we have already adopted. I move the same provision again as Section 6. We might as well have it in three times, as twice.

Mr. WARNER. No sir, it is not the same.

Mr. MEEKER. It seems to me that the proposition of the gentleman from Scott county, if adopted, would have the effect of destroying a very profitable source of speculation. Half the Charters which have been obtained, have been sought by the Corporators for the purpose of selling out. Now I would suggest that half these Corporators whom the gentleman wishes to make liable, have no pecuniary interest in the Corporation whatever. They are mere men of straw, and to make them liable for all the debts of the Corporation would be making them pay rather dear for the honor of appearing in the bill. Many of them are inserted without even consulting them.

Mr. WARNER. The gentleman from Washington, (Mr. SETZER,)

as I understand him, says the amendment I have offered provides for what is already provided for in Section 3. Now sir, the difference is this: Section 3 makes each individual Corporator liable for the amount of stock taken. I wish to make him liable for the debts of the whole Corporation. I had not intended to say any thing upon this subject. I preferred to allow those of more experience to have their own way in the formation of this important branch of government. But sir, it is a subject so deeply affecting the welfare of the community that we cannot too carefully guard it. We are not here to legislate for the Banker or Capitalist. Capital will take care of itself. It is our province to protect the laboring man in his interest, for it is he who is most largely interested in this subject. Corporations represent the moneyed interests of the country. The laboring men are dependent upon them to a very great extent for their means of subsistence, and I know of no reason why this general principle that the Corporators shall become individually liable for the debts of the Corporation, should not be inserted into the Constitution of the future State of Minnesota.

Suppose the Company is composed of ten or fifteen as Corporators, and that out of these there are only two or three responsible persons. If each person is responsible only for the amount of stock taken, then the debts of the Company are secured only by the stock of these two or three persons, and only to the amount of the stock taken by them. Suppose the Compauy has contracted debts to the amount of $3000, and that only $1000 has been subscribed by these responsible parties, where are the creditors to go for justice? Sir, the Constitution of the State says he shall have only the amount subscribed by these responsiple parties. I am in favor of special legislation no further than it protects the interests of the laboring classes, and I believe the amendment I have offered will most effectually secure that object.

The amendment was agreed to.

Mr. MURRAY. I move to strike out Section 3. The reason I make the motion is this: By Section 3, the stockholders are made responsible for the amount of stock subscribed, we have just made them responsible for all the debts of the Corporation by another Section, and it is evident that one Section or the other should be striken out.

Mr. SHERBURNE. I do not know whether I understand what the Committee are doing. If I understand it, we have made each of the Corporators individually liable for the whole amount of stock subscribed. It seems to me that is a very strange provision.

Mr. FLANDRAU. I ask whether this Section is retro-active, and

applies to Corporations already formed: If it does, I shall be in favor of disposing of any stock I may have, as soon as possible.

Mr. SHERBURNE. I am opposed to the motion to strike out Section 3. I am also opposed to the Section just adopted, and I hope the Committee will get rid of it in some way before the matter is finally disposed of. It either means nothing, or it means that the original Corporators of a Company shall be liable for all the debts a Company may contract. If it means that it is a very dangerous and unjust provision. If it means nothing, it is ridiculous and absurd.

Mr. SETZER. I think the object of the last Section was simply to prohibit the building in future of any Canals, Railroads or any other internal improvement. If that is the object of the Convention the sooner we adopt it the better.

Mr. SHERBURNE. That will certainly be the effect of it.

Mr. MEEKER. I am very much in hopes the Committee will reconsider its action in the adoption of that Section. I cannot believe the Committee were in earnest in adopting it. My opinion is that as it stands it means nothing. It will have neither a retrospective nor prospective action.

Mr. SIBLEY. I rise to a point of order. I submit that the amendment of the gentleman from Ramsey, (Mr. MURRAY,) to strike out the third Section is not in order. The Committee have passed that Section in the report and it is not in order to move to strike it out.

Mr. MURRAY. I question myself whether the motion is properly in order. I made it because I was uncertain whether the report of the Committee would be adopted by the Convention as a whole, or whether it would be acted on by Sections. I presume, however, it will be acted on by Sections, and with that understanding I am willing to withdraw the amendment.

On motion of Mr. KINGSBURY, the Committee rose and reported the Article back to the Convention with the amendments agreed on in Committee.

The amendment reported to Section 4, was concurred in.

The question was next stated on concurring in Section 5, as an additional Section.

Mr. SETZER. As I cannot go back to my constituents without placing myself upon record against that amendment, I call for the yeas and nays upon it.

Mr. GORMAN. The language of that amendment, if I understand it, is that the persons incorporated shall be liable for all

the debts of the corporation. This is certainly neither in accordance with rule or precedent. If the provision is adopted at all, it should refer to the persons taking stock or holding stock in such corporations. Why, sir, many of the names of the corporators are put in there merely for the purpose of organizing the company and never own any stock at all. I merely make the suggestion.

Mr. MEEKER. That is the objection I made to it. I fully endorse the opinion of the gentleman, that for the corporators to be required to assume the debts of the company is a new precedent in the legislation of the country. Probably one-half the names mentioned in the acts granting charters, are of persons who are not even aware that such charters are in existence. Why, sir, I found on my return to the Territory that my name was included in the charter for a company chartered to make the Mississippi navigable. Am I to be responsible for the debts that company may choose to contract, because they saw fit, without my knowledge or consent, in my absence, to make me one of the corporators? But as I said before, if this amendment is adopted by the Convention, it will be perfectly harmless, for no person will ever become a stockholder or corporator in any company with this provision hanging over his head. I certainly hope no such provision will ever be incorporated into the fundamental law of Minnesota. If it is, we shall never have another incorporation.

Mr. FLANDRAU. I have no fear that the Convention will adopt any such provision when they come to understand it. If they do, I hope they will also adopt this addition which I now offer, as an amendment:

"That no citizen of the State shall be made a Corporator in any Bill without his consent in writing, to be placed upon the Journal of the House in which such Bill originated."

Mr. WARNER. I hope this Section will not be acted on finally to-day. When gentlemen come to examine it they will see that it contains nothing that is not proper and just. It is precisely such a provision as has been adopted by a number of the different States.

Mr. SETZER. It has certainly never been adopted by any State.

Mr. WARNER. I do not think I am mistaken. I hope gentlemen will take time to consider it before they conclude to reject it. I move that the Convention now adjourn.

The motion was not agreed to.

Mr. FLANDRAU's amendment to the amendment was not agreed to.

Mr. A. E. AMES moved to amend by striking out the words "the "person or persons incorporated," and inserting "the stockholders."

The amendment was not agreed to.

The yeas and nays were ordered upon the adoption of Section five.

Mr. GORMAN. I do not want to make a speech, and I do not intend to ; but, sir, I am either very much mistaken, or some of my fellow-members are very much mistaken in some of the positions which have been advanced here to-day. Sir, it is the opinion of some of the first statesmen of the nation, and an opinion which has never been and never can be successfully controverted, that this Constitution can abolish all your law. It is retro-active. It binds everything. It can wipe out all the laws you have ever passed. It is the act of the sovereignty of the people, and is superior and may supercede every act your Territorial government has ever passed. If you suppose that nothing you do here can affect past legislation, you had better stop. I do not ask any body to take my word for it, nor to look into the matter unless they see proper, but I tell you that this Constitutional Convention is in its acts, from its very nature, the embodiment of the great principle of *vox populi, vox Dei.* It is the highest authority upon this American continent, second only to the Constitution of the United States. You have the right to do any thing and all things, subject only to the Consti tution of the United States. You may abolish your apportionment law and make a new one. You may abolish all your laws. You may abolish your Government itself, and there is no power to prevent you. If the people adopt this Constitution, it becomes the fundamental law of the land, paramount to every other local authority. The Constitution of the United States expressly reserves to the people of the States all powers not expressly conferred upon Congress. You represent the people of the Sovereign State of Minnesota, and your will, ratified by the people, is the Supreme law of the land.

Mr. KINGSBURY. Can this Convention pass *ex post facto* laws ?

Mr. GORMAN. The expression *ex post facto* laws, in the Constitution of the United States, applies exclusively to crimes and misdemeanors.

Mr. MEEKER. Mr. PRESIDENT, what is the question before the Convention ?

Mr. GORMAN. I will tell the gentleman what is the question before the Convention. It is upon the adoption into the Constitution of a clause making corporators indiscriminately liable for all the debts of the corporation. The suggestion was made by the honorable gentleman who addresses me, that this fundamental law, this Constitutional law which we are engaged in framing, could

have no retro-active effect. Upon that point I take issue with him.

Mr. MEEKER. I only expressed such an opinion so far as the Constitutional law which we are engaged in forming goes, to disturb vested rights or impair the validity of contracts. I said, and I say now, that so far as any past action of the Territorial Legislature has created vested rights which are not in contravention to the Constitution of the United States, or laws of Congress, nothing that this Convention can do will affect them in any manner whatever. That opinion has been pronounced by the Supreme Court of the United States in a case which the gentleman well recollects.

Mr. GORMAN. I will allow the gentleman to make a speech as long as he pleases. I am not at all punctilious in regard to hearing the sound of my own voice; but, if he will permit me, I will read from an authority which I presume he will admit carries some weight with it—that of Chief-Justice MARSHALL. I now affirm again that the primary, original sovereignty of the people represented in Constitutional Convention has the right to abolish all laws and commence *de novo;* that we have the power to alter, modify or abolish all corporations of a public nature, such as banks, and everything connected with the administration or functions of any and all departments of government. I have before me a speech made by JAMES BUCHANAN, in which he quotes from the opinion of Chief-Justice MARSHALL, in the Dartmouth College case. He says:

"I think, therefore, it may be stated as a general proposition that the Constitution of the United States in prohibiting the Legislatures of the respective States from passing laws to impair the obligations of contracts, never intended to prevent the States from regulating according to their own sovereign will and pleasure, the administration of justice: their own internal commerce and trade: the assessment and collection of taxes: the regulation of paper currency, and other general subjects of legislation. If this be true, it follows as a necessary consequence that if one Legislature should grant away any one of these general powers either to corporators or to individuals, such a grant may be resumed by their successors. Upon a contrary supposition, the legislative power might destroy itself, and transfer its most important functions forever to corporations. In these general principles, I feel happy that I am sustained by the high authority of Chief-Justice MARSHALL, in the celebrated Dartmouth College case, 4 *Wheaton*, pp. 627, 628, 629, 630. I shall not consume the time of the Senate in reading the whole passage, but shall confine myself to the conclusion at which he arrives. He says: 'If the Act of Incorporation (of Dartmouth College) be a grant of political power: if it create a civil institution to be employed in the administration of the Government: or if the funds of the College 'be public property, or if the State of New Hampshire, as a Government, be 'alone interested in its transactions, the subject is one in which the Legislature 'of the State may act according to its own judgment, unrestrained by any limitation of its power imposed by the Constitution of the United States.' He then proceeds to decide the case of Dartmouth College on the principle that it

is not a public but a private eleemosynary corporation, and therefore within the prohibition contained in the Constitution.

"Here, then, the principle is distinctly recognized that if a corporation created by a State Legislature 'be a grant of political power—if it create a civil in-'stitution to be employed in the administration of the Government,' then the charter may be altered or repealed by the State Legislature. The distinct opinion clearly deducible from this, as well as from the nature of our Government, is, that contracts made by a State Legislature, whether with corporations or individuals, which transfer political power and directly affect the administration of the Government, are not such contracts as the Constitution intended to render inviolable. In other words, although these contracts may be within its general words they are not within its intent and meaning. To declare that they were, would be to say that the people had surrendered their dearest rights into the keeping of the Legislature, to be bartered away forever at the pleasure of their own servants. This would be a doctrine utterly subversive of State rights and State sovereignty."

Now sir, if this Convention can abolish, alter, remodel and revise your whole governmental system, we must certainly be very careful how we proceed. But why do I make these remarks? I do it because honorable gentlemen have expressed the opinion, on this floor, that the acts of this Convention cannot affect past Legislation. I do not like to differ with my friends, but I think it is better to understand each other, and that here is the place for this discussion.

Mr. MEEKER. Will the gentleman allow me to ask one question? Does he maintain that this Constitutional Convention has the power to abolish all past acts of the Territorial Legislature, vesting rights and making contracts, such as the creation of corporations in the nature of contracts?

Mr. GORMAN. That my answer may be perfectly satisfactory to the gentleman, I will read Chief Justice MARSHALL'S opinion directly in answer to his question.

If the act of Incorporation be a grant of political power; if it create a civil institution to be employed in the administration of the government; or if the funds of the college be public property; or if the State of New Hampshire, as a government, be alone interested in its transactions, the subject is one in which the Legislature of the State may act according to its own judgment, unrestrained by any limitation of its power imposed by the Constitution of the United States.

Now what are your corporations? If the gentleman will take the pains to turn to the Statutes, he will find that every single railroad corporation is declared to be a public corporation. They are public corporations for the purposes of trade and commerce. Every corporation of whatever description, which is created for public uses and is public in its character, comes within the perview of the law making power. It is within the control of the

Legislature, and how much more is it in the control of a body representing the primitive sovereign people.

As to our passing a law impairing the obligations of contracts, we are prohibited by the Constitution of the United States from doing that, but to what class of contracts does it refer? If it is a contract with a railroad or any other corporation of a public character, you may pass any act you please, impairing it. So says Chief Justice MARSHALL.

Now sir, this amendment proposes to make corporators individually liable to the whole amount of the debts of the corporation. For one, I am in favor of making the stockholders individually liable to the full amount of the stock taken by each. I would even go so far as to make them liable to double the amount of their stock. But my principle object in rising was in reference to the doctrine that we have no right to interfere with past legislation. I could not, by my silence, permit such a doctrine go abroad as endorsed by this Convention. I repeat, then, that whenever the corporation is connected in any way with the affairs of government, or with its commerce, or connected with its finances or currency, if it is created for any public purpose, you have full power over it.

These are my views upon the subject, and I give them for what they are worth. If they are wrong, the records of the country are before you, and gentlemen can disprove them.

Mr. MEEKER. I do not intend to prolong this debate; but it seems to me that whenever gentlemen come to understand each other, there will be no difference of opinion in reference to the powers of this body over acts of past legislation, if that were the question before the Convention; but I understand the question to be on an amendment reported by the Committee of the Whole on the subject of Corporations. Inasmuch, however, as the gentleman who has just taken his seat, has referred directly to me, I desire to reply in a few words to one or two remarks in reference to the powers of this body.

Now sir, the action of the Territorial Legislature, passed by virtue of the Organic Act of the Territory, and not incompatible with the provisions of the Constitution of the United States, constitutes law, binding in its obligation upon the people of the Territory. But it is also true that this Constitution, when it goes into effect by the will of the people, becomes *ipso facto*, the Supreme Law of the land, subject only to the Constitution of the United States, and so far as it does in its miscellaneous provisions come in conflict with the existing laws passed by the Territorial Legislature, super-

cedes them. Otherwise, we should be afloat without compass or pilot. But as to the legal opinions which the gentleman from Ramsey has so freely advanced, my opinion is this: That where corporations have been created, whether public or private, in which pecuniary rights are involved, those rights are protected against the power of this Convention, or any other body to destroy them, by that excellent provision of the Constitution of the United States forbidding the passage of any law impairing the obligations of contracts.

Now, it is true that corporations looking towards the administration of the government, those which have reference to the administration of justice, and those which have reference to the political action of the State, are under the control of the State, but not where contracts involving the rights of private citizens have been created.

Mr. GORMAN. Will the gentleman allow me to ask him one question? He has lived, I believe, for some time, in the State of Kentucky. I ask him whether or not the Supreme Court of the United States, did not sustain the decision of the Courts of Kentucky in abrogating the charter of the Commonwealth Bank, with all its vested rights and chartered privileges?

Mr. MEEKER. I think not. It is a matter entirely irrelevant to the subject under consideration, but my recollection is that when the question of the constitutionality of that Bank was questioned, the matter was carried from the highest courts of Kentucky to the Supreme Court of the United States, where it was decided, for the first time that a State Bank was a Constitutional institution. The Court was decided by three to two, only five judges sitting on the case. But, sir, I think this discussion has been carried far enough. I hope the question will be taken.

The question was taken upon the adoption of Section 5, as an additional Section, and it was decided in the negative—yeas 2, nays 41, as follows:

YEAS—Messrs. Murray and Warner.

NAYS—Messrs. A. E. Ames, Burns, Butler, Becker, Baker, Burrett, Burwell, Bailly, Brown, Baasen, Curtis, Chase, Cantell, Day, Emmett, Faber, Flandrau, Gorman, Holcombe, Jerome, Kennedy, Kingsbury, Keegan, Leonard, Lachelle, Meeker, McGrorty, McFetridge, McMahan, Norris, Nash, Setzer, Sherburne, Stacey, Streeter, Swan, Tenvoorde, Taylor, Tuttle, Wait, and Mr. President—41.

So the amendment was not concurred in.

The report of the Committee of the Whole upon the substitute for Section 3, as offered by Mr. GORMAN, was then adopted.

The report of the Committee of the Whole, as amended upon the entire Article, was then concurred in.

On motion of Mr. SETZER, the article was referred to the Committee on Revision and Phraseology.

Mr. BAASEN moved to adjourn to half past 2 o'clock P. M.

The motion was not agreed to.

LEGISLATIVE DEPARTMENT.

On motion of Mr. SETZER, the Convention resolved itself into a Committee of the Whole on the report of the Committee on the Legislative Department, Mr. NORRIS in the chair.

The report is as follows:

The Committee to which was referred the subject of the Legislative Department of the Government, and the subject of Congressional and Legislative Apportionment, respectfully submit a report upon the Legislative Department of the Government. The Committee, at a future time, will submit a report upon Congressional and Legislative Apportionment in a separate Article:

ARTICLE.

LEGISLATIVE DEPARTMENT.

SECTION 1. The Legislative Department of the State shall consist of a Senate and House of Representatives, who shall meet at the seat of Government of the State at such times as shall be prescribed by law.

SEC. 2. The number of members who compose the Senate and House of Representatives shall be prescribed by law, but the representation in the Senate shall never exceed *one* member for every five thousand inhabitants, and in the House of Representatives *one* member for every two thousand inhabitants. The representation in both Houses shall be apportioned equally throughout the different portions of the State, in proportion to the population thereof, and exclusive of Indians not taxable under the provisions of law.

SEC. 3. Each House shall be the judges of election returns, and eligibility of its own members; a majority of each shall constitute a quorum to transact business, but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as each House may provide.

SEC. 4. Each House may determine the rules of its proceedings, sit upon its own adjournment, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but no person shall be expelled a second time for the same offence.

SEC. 5. The House of Representatives shall elect its presiding officer, and each House shall elect such other officers as may be provided by law; shall keep a Journal of its proceedings, and from time to time publish the same, and the yeas and nays of either House, on any question upon which they may be had, shall be entered on such Journal.

SEC. 6. Neither House shall, during a session of the Legislature, adjourn for more than three days, (Sundays excepted,) nor to any other place than that in which the two Houses shall be in session, without the consent of the other House.

SEC. 7. The compensation of Senators and Representatives shall be three dollars per diem during the first session, but may afterwards be prescribed by law. But no increase of compensation shall be prescribed which shall take ef-

fect during the period for which the members of the existing House of Representatives may have been elected.

SEC. 8. The members of each House shall in all cases, except treason, felony and breach of peace, be privileged from arrest during the session of their respective Houses, and in going to or returning from the same. For any speech or debate in either House, they shall not be questioned in any other place.

SEC. 9. No Senator or Representative shall, during the time for which he is elected, hold any office under authority of the United States, or of the State of Minnesota, except that of Post Master, and no Senator or Representative shall hold an office under the State, which had been created, or the emoluments of which had been increased during the session of the Legislature of which he was a member, until two years after the expiration of his term of office in the Legislature.

SEC. 10. All Bills for raising a revenue shall originate in the House of Representatives, but the Senate may propose and concur with amendments, as on other Bills.

SEC. 11. Every Bill which shall have passed the Senate and House of Representatives, in conformity to the rules of each House, shall, before it becomes a law, be presented to the Governor of the State. If he approve, he shall sign and deposit it in the office of Secretary of the State for preservation, and notify the House, where it originated, of the fact. But if not, he shall return it with his objections to the House, in which it shall have originated, when such objections shall be entered at large on the Journal of the same, and the House shall proceed to reconsider the Bill. If, after such reconsideration, two-thirds of that House shall agree to pass the Bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be re-considered, and if it be approved by two-thirds of that House, it shall become 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 Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the Governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Legislature, by adjournment within that time, prevent its return, in which case it shall not be a law.

SEC. 12. No money shall be appropriated except by Bill. Every order, resolution or vote, requiring the concurrence of the two Houses, (except such as relate to the business or adjournment of the same,) shall be presented to the Governor for his signature, and before the same shall take effect, shall be approved by him, or being returned by him with his objections, shall be re-passed by two-thirds of the members of the two Houses, according to the rules and limitations prescribed in case of a bill.

SEC. 13. The style of all laws of this State shall be, "*Be it enacted by the Legislative Assembly of the State of Minnesota.*"

SEC. 14. The House of Representatives shall have the sole power of impeachment, through a concurrence of a majority of all the members elected to seats therein. All impeachments shall be tried by the Senate, and when sitting for that purpose, the Senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 15. The Legislative Assembly shall have full power to exclude from the privilege of electing or being elected, any person convicted of bribery, perjury, or any other infamous crime.

SEC. 16. Two or more members of either House shall have liberty to dissent and protest against any act or resolution which they may think injurious to the public or to any individual, and have the reason of their dissent entered on the Journal.

SEC. 17. The Legislative Assembly shall prescribe by law the manner in which vacancies in either House shall be supplied, and the manner in which evidence in cases of contested seats in either House shall be taken.

SEC. 18. Each House may punish by imprisonment, during its session, any person not a member, who shall be guilty of any disorderly or contemptuous behavior in their presence, but no such imprisonment shall at any time exceed twenty-four hours.

SEC. 19. Each House shall be open to the public during the sessions thereof, except in such cases as in the opinion of the House requires secrecy.

SEC. 20. Every bill shall be read on three different days in each separate House unless in case of urgency, two-thirds of the House where such bill is depending, shall deem it expedient to dispense with this rule, and no bill shall be passed by either House until it shall have been previously read twice at length.

SEC. 21. Every bill having passed both Houses shall be carefully enrolled, and shall be signed by the presiding officer of each House. Any presiding officer refusing to sign a bill, which shall have previously passed both Houses, shall hereafter be incapable of holding a seat in either branch of the Legislative Assembly.

SEC. 22. The Legislature shall provide by law for an enumeration of the inhabitants of this State in the year one thousand eight hundred and sixty-five, and every ten years thereafter. At their first session after each enumeration so made, and also at their first session after each enumeration made by the authority of the United States, the Legislature shall have the power to prescribe the bounds of Congressional, Senatorial and Representative Districts, and to apportion anew the Senators and Representatives among the several Districts according to the provisions of section second of this Article. At each of said sessions the Legislature may prescribe the qualification of voters within this State.

SEC. 23. Members of the House of Representatives shall be elected to serve for one year, and members of the Senate shall be elected to serve for two years.

SEC. 24. Senators and Representatives shall be citizens of the United States, and shall have resided for one year in the State, and six months immediately preceding the election, in the District from which they are elected.

SEC. 25. Members of the Senate of the United States from this State shall be elected by the two Houses of the Legislative Assembly on joint ballot, at such times and in such manner as may be provided by law.

SEC. 26. No bill shall be passed by either House, embracing any subject not referred to in the title.

SEC. 27. All members and officers of both branches of the Legislature, shall, before entering upon the duties of their respective trusts, take and subscribe an oath or affirmation to support the Constitution of the United States, the Constitution of the State of Minnesota, and faithfully and impartially to discharge the duties devolving upon him as such member or officer.

All of which is respectfully submitted.

JOSEPH R. BROWN, WM. P. MURRAY,
HENRY N. SETZER, ANDREW KEEGAN,
DAVID GILMAN, W. A. DAVIS,
W. W. KINGSBURY, O. W. STREETER.

Mr. A. E. AMES moved to amend section two, by striking out the words, "five thousand," and inserting in lieu thereof the word, "eight thousand," so that the clause as amended would read:

SEC. 2. The number of members who compose the Senate and House of Representatives, shall be prescribed by law; but the representation in the Senate shall never exceed *one* member for every eight thousand inhabitants.

Mr. A. said, that as the section now stood, if there were 200,000 inhabitasts, the Senate would then consist of forty members.

The amendment was not agreed to.

M. A. E. AMES. I move to amend by striking out "five," and inserting "ten;" we should then have twenty members for the Senate, with a population of 200,000.

Mr. SETZER. I call the attention of the Convention to the fact that this section leaves it open for the Legislature to apportion the State, and to reduce the number of Senators as much as they may see fit. It only provides that the number shall not exceed one for every 5,000 inhabitants, and with the present population of the Territory, I think we could not extend the limit further, and give every portion of the Territory a fair representation. For that reason I am opposed to the amendment.

The amendment was not agreed to.

Mr. MEEKER. I move to amend Section two, so as to provide that the number of Senators shall never exceed 45, nor the number of members of the House of Representatives exceed 100.

The amendment was not agreed to.

Mr. EMMETT moved to amend so as to provide that the Senate shall never exceed 50 members, nor the House of Representatives 100 members.

The amendment was not agreed to.

Mr. HOLCOMBE. I move to amend by adding the following:

PROVIDED, that every county having 500 inhabitants, shall be entitled to one Representative.

There are interests pertaining to each county, which no person residing out of the county can properly represent.

Mr. SETZER. I move to amend the amendment by striking out the words, "having 500 inhabitants."

Mr. HOLCOMBE. I accept the amendment.

Mr. MEEKER. I hope this amendment will not be adopted. I have known counties organized as soon as they had population sufficient to furnish a Sheriff, Recorder, Constable and one Squire.

Mr. SETZER. My object in moving the amendment, is to give the Legislature an inducement to create as many counties as pos-

sible. It will operate very well for the Democratic party. [Laughter.]

Mr. BROWN. If the amendment of the gentleman were embodied in a bill before the Legislature, I should vote for it very cheerfully, because it would operate beneficially to our section of the country, but it would, in my opinion, be wrong to embody such a provision in the Constitution.

The Section, if the amendment should be adopted, would provide that the ratio of representation for the House of Representatives shall not exceed one member for every 2,000 inhabitants, but every county shall be entitled to at least one Representative. Now suppose, as is perhaps the case on the frontier, that there are fifteen or twenty Counties with a population of from 300 to 500 each ; you would then give to those 300 or 500 a representation equal to 2,000 in the more thickly settled portions of the State. I admit that it might operate very well for the Democratic party, but it would be doing an injustice to the more thickly settled portions of the State. Sir, let us be just to all. If we are to have a representation, let it be fair and equal. If a county has not inhabitants enough to entitle it to a representative, let two, three, four, or a half-dozen, be put together to form one Representative District.

The amendment was not agreed to.

Mr. HOLCOMBE moved to amend so as to provide that each County containing 500 inhabitants shall be entitled to one Representative.

Mr. BROWN. The adoption of that amendment would be still doing an injustice. You would then give to 500 inhabitants in one County a representation equal to 1,500 inhabitants in another County.

Mr. HOLCOMBE. I cannot see that the adoption of my amendment will work injustice upon any portion of the Territory. If the County of Washington has the full *quota* of 2,000 inhabitants, it will be represented in the Legislature. But, sir, I can very readily see that in the frontier Counties, there is a much larger number of voters in proportion to the population, than in the more thickly settled portions of the Territory. I venture to assert that if the census were taken to-day in Washington or Ramsey County, there would not be one-half the proportion of voters that would be found in the frontier Counties.

But again, these frontier Counties are the out-posts of civilization and require to a greater extent, the protection of Government. I admit the correctness of the gentleman's position, that representation should be equal ; but there is no rule without an exception.

Suppose, as the gentleman says, three or four counties are grouped together and send one Representative. There is frequently jealousy existing between these Counties, and the Representative elected from one cannot possibly represent the wishes or interests of the people of another County. I think it no more than justice to the frontier, that where the population of a County reaches 500, it shall be entitled to one Representative.

Mr. CURTIS. I propose to amend the amendment by striking out the word "inhabitants" and inserting the word "voters."

Mr. BAKER. I have been and am now determined not to take up the time of the Convention in discussing the various propositions contained in the reports of the various Committees. Where the propositions they submit are right, I want to go for them. And I do not propose to depart from that rule now, because I am anxious that this Convention shall bring its labors to a close. But, sir, I do know that there is justice in the remarks of the gentleman from Washington, (Mr. HOLCOMBE.) I think I see now on the floor of this Convention, two or three gentlemen representing Counties which eighteen months ago, did not contain a hundred inhabitants. But they are steadily increasing, and their interests require that they should be represented in the Legislature. As I remarked, I do not want to go outside the report of the Committee if I can possibly avoid it, but I think that justice to these frontier Counties requires that where they contain as many as 500 inhabitants they should be represented in the Legislature. I hope the amendment of the gentleman from Washington will be adopted.

Mr. BROWN. I stand here representing in part, I do not know how many Counties, several of them created as such by the last Legislature. All of them will, I presume, contain as many as 500 Inhabitants before the first apportionment under this Constitution will be made, and I should be very glad to see this amendment adopted, if it would not carry with it very great injustice to other portions of the Territory. It gives to thinly settled portions of the Territory thrice the proportionate representation that you allow for the more densely settled portions. I think there is injustice in it. I am aware that the necessities of the frontier Counties perhaps demand a larger share of the attention of the Government, but I think there is no such necessity as should justify us in giving them so large a preponderance in the Legislature.

The CHAIRMAN. The Chair would suggest that the question is on the amendment to the amendment, which is to strike out the word "inhabitants" and insert the word "voters."

Mr. BROWN. I was just coming to that point. The gentleman

from Washington, (Mr. HOLCOMBE,) remarked that there was a larger proportion of the population in the frontier Counties voters, than in the more thickly settled Counties.

I am well aware that such is the fact, but still I do not think it would be just to give them a larger representation. If we are to make any discrimination at all, we might as well discriminate in favor of a property qualification. I am opposed both to the amendment and to the amendment to the amendment.

The amendment to the amendment was not agreed to.

Mr. SETZER. I move to amend the amendment by providing that the County of Washington shall be divided into twelve Counties.

My colleage from Stillwater, (Mr. HOLCOMBE,) has said that there is a larger proportion of voters in some of the Counties than others. Now, sir, I venture to say that there is not a County in the Territory containing a larger number of voters in proportion to the population than the County of Washington. A large portion of the inhabitants of that County are lumbermen, nearly all of whom are voters, and sir, the lumber interests of that County are as peculiar and require as much the attention of the Government as those of any section of the Territory. If, therefore, the amendment of my colleague is to prevail, it is no more than justice that the amendment to the amendment should be adopted. (Cries of "question!" "question!")

The amendment to the amendment was not agreed to.

Mr. WARNER. The great objection to the report as it stands, seems to be that the more sparsely settled Counties will not be represented in the Legislature if three or four of them only elect one Representative. Now, sir, I have an amendment which, I think, will obviate that objection, and which I offer as a substitute for the pending amendment. I move the following:

And every County having a population of 500 inhabitants shall be entitled to representation in the House of Representatives.

Mr. MEEKER. I am in favor of that proposition. It leaves the whole matter with the Legislature, where it belongs.

The substitute for the amendment was not adopted.

The question then recurred on the original amendment offered by Mr. HOLCOMBE, and being taken, the amendment was disagreed to.

Mr. HOLCOMB. I now renew the same amendment, making the number one thousand.

I do not do it to detain the Convention. But, sir, the gentleman from Sibley, (Mr. BROWN,) has admitted that there is justice in giv-

ing the frontier Counties a larger proportionate representation. Now, sir, when a new County has attained a population of 1,000 I want to see it represented in the Legislature. I want to know what kind of a county it is. I do believe that every voter in these frontier Counties should have the representation of two voters in the densely settled Counties.

The amendment was agreed to.

On motion of Mr. SETZER, the Committee rose, reported progress and asked leave to sit again.

Leave was granted.

Mr. BAKER moved that the Convention adjourn.

The motion was not agreed to.

On motion of Mr. KINGSBURY, the Convention then at fifteen minutes before one, adjourned until half-past 2 o'clock, P. M.

AFTERNOON SESSION.

The Convention met at half-past 2 o'clock.

LEGISLATIVE DEPARTMENT.

On motion of Mr. KINGSBURY, the Convention resolved itself into Committee of the Whole, Mr. NORRIS in the Chair, and resumed the consideration of the report of the Committee on the Legislative Department.

Mr. BECKER moved to strike out the following section :

SEC. 10. All bills for raising a revenue, shall originate in the House of Representatives, but the Senate may propose and concur with amendments, as on other bills.

Mr. BROWN. I hope that amendment will not prevail. The section is copied *verbatim* from the Constitution of the United States, in regard to the introduction of appropriation bills into Congress, and I think it is proper and right. This report provides for the election of Senators for two years, and Representatives for only one. Now I want the appropriation bills to originate with the immediate representatives of the people.

Mr. BECKER. The reason why I moved the amendment is this: Under our Constitution, as I presume it will be adopted, both the members of the Senate and House of Representatives are to be elected by the people, and I can see no necessity for any such distinction. In England, where one House of Parliament is hereditary, it is a very proper provision that all bills for raising revenue shall originate in that House which comes from the people. The same reason applies, to a certain extent, in the Senate of the United States, which body is elected by the State Legislatures, but here in

Minnesota where both the Senate and House of Representatives emanate directly from the people, I see no reason whatever for any such distinction.

The amendment was not agreed to.

Mr. FLANDRAU. I move to amend section eleven, by striking the words "in conformity to the rules of each House and the joint "rules of the two Houses" from the following clause of the section.

SEC. 11. Every bill which shall have passed the Senate and House of Representatives, in conformity to the rules of each House, and the joint rules of the two Houses, shall, before it becomes a law, be presented to the Governor of the State.

I will state as a reason for my amendment, that in my opinion, the condition which I propose to strike out, ought not to be made an absolute requisite in the passage of a bill, that if a bill had passed the Legislature by no matter how large a majority, and it should turn out that there had been some little informality in complying with some rule of the two Houses, it might be questioned whether the bill was a law. Now, I trust that matters of this trivial nature will not be made absolute conditions for the validity of a law. The two Houses are supposed to be capable of enforcing their own rules, and there certainly is no necessity or propriety in putting such a clause in the Constitution.

Mr. BROWN. By another section of this report, each House is authorized to make rules for its own government. They can make such rules as to them may seem necessary and proper, but when made, I think it is right that they should be required to conform to them.

Mr. FLANDRAU. But it seems to me that you are making an important result depend upon an unimportant informality. For instance, the ordinary rules of a Legislature require that a bill before being presented to the Governor for his signature shall be signed by the President of the Senate and the Speaker of the House of Representatives. Such a provision is proper to be in the rules. They must have rules to secure regularity in their proceedings, but gentlemen will see that by inserting a clause in the Constitution requiring bills to be signed by these officers before they can be presented to the Governor, they are creating a separate veto power and placing the whole action of the Legislature in the hands of one of its officers. I am in favor of striking these words out. Let the Houses of the Legislature make their own rules and enforce them as they may see fit, but do not make the validity of laws depend upon such little unimportant informalities.

The amendment was disagreed to.

Mr. FLANDRAU. The latter clause of section fourteen relating

to trial for imprisonment, reads, "No person shall be convicted „ without the concurrence of two thirds of the members present." I move to strike out the word "present" and insert "elected."

We have had instances, as in Massachusetts, where for a political cause the Legislature attempted to legislate a man out of office by a kind of impeachment, and but for the veto of the Governor, he would have been removed. It is an example that we ought to look to and be made cautious by. I think this removal from office in these high political times, is something that ought to be guarded as carefully as we can, for the safety of the country. If you can remove by a majority of the members present, you may remove by less than one third the members of the Senate.

Mr. MEEKER. I am in favor of the amendment. The gentleman is, however, mistaken in the similarity which he supposes to exist in the proceedings contemplated by this section, and that mentioned by him in the Legislature of Massachusetts. That was an attempted removal by address and not by impeachment. There was no trial had. Under the Constitution of that State, as of several of the other States, the process of removing high officers of the State, is first by address and then by impeachment and trial before the Senate The first was the proceeding attempted against Judge LORING.

Mr. BROWN. I suppose that it is necessary that I should defend the action of the Committee. This was a subject which was taken into consideration and discussed by us. From the fact that we have required a majority of the entire number of members elected to the House of Representatives to prefer articles of impeachment against any officers, it was thought that to require two thirds of the members of the Senate present to pass judgment, would be a sufficient guard. I am very willing to see every guard thrown around the different officers of State that is necessary, but I do not want to see them guarded to such an extent that in times of high political excitement a guilty officer can neither be reached by the body impeaching or that trying him. If it is a matter of much importance, in all probability a large proportion of the Senators elected will be present, and if a large majority are present and two thirds are required to convict, it is throwing around the officer, it seems to me, as much guard as the duties and responsibilities of the Senate will admit of.

Mr. SIBLEY. I only want to say that in my opinion, the Committee in their report have thrown all the guards around the officers that ought to be thrown around them. I shall vote against the amendment of the gentleman from Nicollet, simply for the

reason that so far as the trials in this country for impeachment have been carried on to the culminating point, they have proved mere farces. In the whole history of the country, so far as United States Judges are concerned, I believe there has been but a single removal from office by impeachment—that of Judge CHASE.

I am not able to see the force of the reasoning of the gentleman from Nicollet. I think the history of the country will show that with the restrictions provided, guilty officers are much more likely to go unpunished than others are to be punished when they do not deserve it.

Mr. FLANDRAU. The arguments of the gentleman from Dakota, simply prove the purity of our Judiciary. I have no doubt the courts which have tried these cases, have done their duty and that the parties acquitted were innocent.

Now sir, in reference to the process of impeachment, I understand the action of the House of Representatives in preferring articles of impeachment to be precisely similar to an indictment by a Grand Jury. They present the indictment to another body which as court, tries the officer indicted. I apprehend the accused party has no hearing before the House of Representatives in their action impeaching him. He is impeached upon *ex parte* evidence, and then brought before the Senate for trial, where he is given the opportunity to defend himself. There is no opportunity of a fair representation of the case before the impeaching tribunal. He is brought before the body that is to try him upon an *ex parte* indictment. A majority of that body constitutes a quorum and you propose to allow two-thirds of that majority to convict him. If that majority happen to be opposed to him politically, he stands in my opinion a very small chance of receiving justice at their hands.

Mr. SIBLEY. One word in reply. I have as high a regard for the purity of the ermine as the gentleman; but sir, it is notorious that there have been many cases where justice loudly demanded that Judges should be impeached. I will only refer to one case which now exists and stands in the face of the country, from year to year as a glaring case of neglect upon the part of somebody. I refer to the case of Judge WATROUS of Texas. The Legislature of that State have time and again, brought the facts to the attention of Congress. But the House has neglected to act upon it and up to this time no articles of impeachment have been preferred. I think as I said before, the Committee have provided amply against all danger of abuse upon the part of the Senate, and I hope the amendment will be voted down.

Mr. FLANDRAU. One word more in regard to this Massa-

chusetts case. If I recollect the circumstances correctly, the only crime urged against Judge LORING was for having fearlessly and independently done his duty, in executing the laws of his country in the face of popular prejudice, faction and excitement. He executed the law like an upright, virtuous Judge. The case arose under the Fugitive Slave Law and such was the treasonable excitement upon the part of the Legislature that they would have rushed him out office if they had had the power. Sir, future Legislatures of Minnesota are as likely to act from undue excitement as was that of Massachusetts, and it seems to me it behooves us now, while we are framing the Organic Law of our future State, to place this matter where such a stigma will never be placed upon our Legislature as now rests upon the Senate and House of Representatives of Massachusetts.

Mr. SETZER. I think the gentleman who last spoke takes an entirely wrong view of this subject of impeachment. His practice at the bar has made him conversant with trials in the courts, but I do not think he fully understands the subject of impeachments more than I do myself. Impeachments only lie against persons high in office. The partisans of the officer accused will defend him in person in the House of Representatives, if his course is at all susceptible of defense, and he will have advocates to defend him when he comes to be tried in the Senate. But sir, he is not to be tried before the Senate for his property or his life. The Senate has no such jurisdiction. It merely decides whether he shall hold office. His situation is entirely different from that of a citizen who is being tried for a criminal offence. We throw strong safeguards around the life of the citizen, and it is proper that there should be some protection against the people, to persons high in office, who have been guilty of high misdemeanors. But sir, the case mentioned by the gentleman from Nicollet, (Mr. FLANDRAU,) in the Massachusetts Legislature is also an entirely different thing. The address did not accuse Judge LORING with any crime, nor did those who voted for the address say he was guilty of any crime. They merely requested the Governor to remove him, which that officer had the power to do if addressed by a simple majority vote. But before an officer can be tried for impeachment, he must be proven to be guilty of crime, and those who convict him must say upon their oaths that they believe he is guilty. Every gentleman is familiar with the trial of Judge HUNTER of Wisconsin upon the charge of a misdemeanor. He was acquitted because there was not a two-thirds vote to convict him, though I believe a majority voted for it.

The amendment was disagreed to.

Mr. MEEKER. That section, I think, is a little defective. It says that no person shall be convicted without the concurrence of two-thirds the members present. Convicted of what? What are the consequences of conviction? What judgment is to be rendered? All the Constitutions of the States which I now remember specify what should be the effect of such conviction. They generally specify that the conviction shall not extend beyond removal from office or disability to hold any place of honor or trust under the State Government. Unless some restriction is contained in the Constitution, the Senate would have the power to imprison the person convicted. I move to amend by adding:

And the judgment, on conviction, shall not extend beyond removal from office, and a disability to hold any office of trust or profit in the State.

The amendment was disagreed to.

Mr. FLANDRAU. I move to strike out the following section:

SECTION 21. Every bill having passed both Houses shall be carefully enrolled, and shall be signed by the presiding officer of each House. Any presiding officer who shall refuse to sign a bill which shall have previously passed both Houses shall thereafter be incapable of holding a seat in either branch of the Legislative Assembly.

I do not wish to be captious about these matters, but I cannot really see the necessity of providing in the Constitution that every bill shall be read twice at length. The effect of it will be to prevent either House from dispensing with the reading by unanimous consent. It seems to me you are hampering up the Legislature to an extent that you will regret. The Legislature is certainly capable of taking care of itself in these matters. I hope the section will be stricken out.

Mr. BROWN. I hope the motion will not prevail. If I understand the duty of the Committee which had charge of this subject, it was to draw up such an Article to be embodied in this Constitution as would not only prescribe and define the duties of the Legislature but furnish such means as would secure the proper discharge of their duties as such. Now, sir, experience has taught us that there is not a section in the whole Article more important than the one under consideration. I have known, often, bills to be passed without ever being read once. During the last session a bill of the most obnoxious character passed the Legislature, and was only prevented from becoming a law by the scrutiny which it underwent in the Executive office. I want to guard against any such action in future. I want to see all bills of any importance read on three different days, and that, under no circumstances, shall any bill pass without being read twice at length. I consider

it a necessary safeguard for the people. I do not think a bill should be passed in either House even by unanimous consent without being read at length.

Mr. FLANDRAU. To what bill did the gentleman refer, passed at the last session?

Mr. BROWN. It was a bill which would have given negroes the right to vote. It was passed by unanimous consent, without reading, upon the representation of a member that it contained nothing objectionable.

Mr. FLANDRAU. I withdraw the motion to strike out.

Mr. SIBLEY. I move to amend the Section by adding: "or of "holding any other office of honor or profit in the State." The clause will then read:

Any presiding officer refusing to sign a bill which shall have previously passed both Houses, shall thereafter be incapable of holding a seat in either branch of the Legislative Assembly, or holding any other office of honor or profit in the State.

I offer the amendment because I consider the penalty for the omission of so important a duty devolving upon a presiding officer, which is provided in the section as it stands, entirely inadequate to the offence. Any officer who would take it upon himself to defeat a bill by refusing to sign it after it had passed both branches of the Legislature, should certainly be disqualified not only from holding a seat in the Legislature but from any office of honor or profit under the State Government. I hope the amendment will be adopted.

The amendment was agreed to.

Mr. FLANDRAU. I renew the motion to strike the whole Section out. It presents the same difficulty to which I called the attention of the Committee in a former section, of providing rules for the House in the Constitution. I want all bills signed by the Speaker, and I want that he should be required to sign them; but I object to placing a veto power in his hands.

Mr. BROWN. During my legislative experience I have known a great many bills defeated by the refusal of a presiding officer of one of the Houses of Legislature to sign them. I suppose I could mention at least a dozen instances of bills which had passed both Houses and, the next morning after the adjournment of the Legislature were found comfortably reposing on the Speaker's desk unsigned. Now, sir, I want the Speaker to be required, under as heavy a penalty as is provided in this Section, to sign bills that have passed both Houses.

Mr. FLANDRAU. The gentleman from Sibley (Mr. BROWN) has

given the Convention a stronger argument than I could have possibly done against this making a compliance with the rules of the House a requisite for a bill becoming a law. The gentleman says he could instance a dozen cases where bills have been defeated by a refusal of the presiding officer to sign them. Now, sir, if these instances are so frequent, it certainly becomes our duty to obviate such failures in future by placing it out of the power of presiding officers to defeat bills in any such manner.

Mr. SETZER. The objections are perhaps well founded, but I ask what better evidence can we have that a bill has passed the House than the signature of the Speaker. We must have some authentic evidence; and if we make the signature of the presiding officer unnecessary, what authentication shall we have?

Mr. FLANDRAU. The position I take, gives the remedy. Leave it to the rules of the House to provide, but do not allow the neglect or refusal of the Speaker to sign bills, to defeat them. Let the presiding officer sign it, but if he refuses, the certificate of a majority of the members who voted for it, is sufficient evidence that it has passed, and the certificate of the Governor is sufficient evidence of that fact. Let the presiding officers sign the bills, but do not give them the veto power.

Mr. MEEKER. The gentleman from Nicollet takes a very different view of the veto power from what I do. The presiding officer of the House, when he enters upon his office, takes an oath faithfully and impartially to discharge the duties of his office Among these duties is that of signing all bills which have passed both Houses. If he fails to do that duty, we may provide for punishing him, but it is not conferring a veto power upon him, by making it possible to violate his oath of office. It seems to me we have no right to suppose that any presiding officer will fail to discharge his official obligations. I think the amendment is wrong and ought not to prevail.

Mr. BROWN. I simply want the Committee to observe the position which the gentleman from Nicollet assumes in his argument against his own motion. He says, strike out the section and allow the Legislature to provide its own rules. Now I defy the gentleman to show me a single instance in the rules of any House of any Legislature of any State which does not require the presiding officer to sign all bills which have passed both Houses. That then is made a part of his duty. Now the Clerk may lay the bills which have passed both Houses before him, and those bills have not been passed according to the rules of the House, until he has signed them. But in the hurry in which bills are huddled on his desk in

the closing hours of the session, he may easily select out those which are obnoxious to himself, and lay them aside, and it will not be discovered that they have not been signed until the close of the session. I want that it shall be made imperative upon him to sign them.

Mr. SIBLEY. The section under consideration provides against accidents such as the gentleman from Nicollet has mentioned. If it shall be discovered or appear that the presiding officer has refused to sign a bill, the Constitution makes his office vacant forthwith, and the House can proceed to provide itself with another presiding officer. It strikes me that the section as it stands provides all that it is necessary to provide on the subject.

Mr. EMMETT. How will the gentleman know that the presiding officer has refused to sign a bill?

Mr. SIBLEY. It is the proper business of the Committee on Enrolled Bills to ascertain. It is their duty to present all bills to the Governor for his signature within a certain time after their passage, and the mere fact of their not being presented is sufficient evidence of his having refused to sign them.

Mr. EMMETT. I understand that the practice usually is to flood the Speaker's desk with bills, in the last hours of the session, so that it is almost impossible to ascertain what bills have and what have not been signed until after the close of the session. It seems to me that by this section you do, as the gentleman from Nicollet says, place it in the power of a presiding officer to refuse to sign a bill, and thus secure its defeat near the close of the session, if he chooses to do it and make a martyr of himself by taking the consequences of his refusal.

Mr. SIBLEY. The gentleman seems to overlook the fact that the penalty attached is one which very few presiding officers would care to incur. The instances mentioned by the Chairman of the Committee, (Mr. BROWN,) of the refusal of the presiding officers to sign bills were where no such penalty was attached.

Mr. EMMETT. But suppose he should see fit to take upon himself the responsibility of incurring the penalty, what remedy would you have?

Mr. BROWN. If the gentleman will permit me, I will state under the rules usually adopted, bills are signed by the Speaker of the House of Representatives first. They are journalized as they are singed, and then transmitted to the Senate by a message of the Clerk of the House of Representatives, and placed upon the desk of the Secretary of the Senate. It is his duty to present them at once to the presiding officer of the Senate for his signature and to

journalize them as they are signed. I think there should be no difficulty in ascertaining whether the presiding officer signs or refuses to sign any bill.

Mr. FLANDRAU. The arugments which have been presented, do not touch the difficulty of which I have complained. It is that if you make it a part of the Constitution that all bills shall be signed by the presiding officers, then if they do not sign them, these bills will not become laws. You then place it in the power of each of the presiding officers of both Houses to defeat the will of the House over which he presides, and of both Houses. There can be no doubt of that. Why? Because the Constitution of the State makes the signature of these presiding officers necessary to give validity and authority to laws. Then, sir, you place in the hands of each of these presiding officers a veto power superior to that vested in the Governor of the State. If the Governor vetoes a bill, it is in the power of the two Houses by a two-thirds vote, to pass that bill into a law in spite of the veto of the Governor, but for the veto of a presiding officer you have no remedy.

Now sir, I say, punish these men for a violation of their duty—punish them to the full extent provided for in this section, but do not place it in their power to defeat the will of the two Houses by such violation or omission of duty. As the Article now stands, you will have the satisfaction of punishing a presiding officer for malfeasance in office, but he will have the satisfaction of having defeated the will of the Legislature. You will simply have the satisfaction of punishing him after you have irretrievably lost your bill. That is my position and it is one which has not been successfully answered.

Sir, you talk about imposing a penalty which no man will be willing to incur. Why, sir, to carry certain political ends has become a part of the religion of a large number of men in this country. It is embodied in their church regulations, and the history of the world shows us that men for the sake of their religious belief, will incur, not only such minor penalties as disqualification from office, but will sacrifice even life itself, and become martyrs to their religion. I tell you there are men in this country who would glory in incurring any penalty you may impose, to defeat certain political measures which may be carried through the Legislature. I say again, punish these presiding officers as severely as you choose for dereliction of duty, but do not place it in their power, by the refusal to sign a bill, to defeat the will of the people expressed through their representatives.

Mr. EMMETT. I am opposed to striking the Section out entire

without putting something in its place. I think the Section as it stands, by placing it in the power of a presiding officer, if he chooses to make a martyr of himself, to defeat any bill, gives to that officer a veto power, or something equally objectionable. But it is necessary that there should be some authentication of the passage of bills, and I am opposed to the motion of the gentleman from Nicollet to strike out without suggesting anything else to cover the object sought to be attained by the Section.

My own opinion is that the refusal of a presiding officer should not be allowed to defeat a bill, but that, upon his refusing to sign a bill, some action ought to be taken to cause him instantly to vacate his seat and allow the House to provide another presiding officer. I do not think that follows as a necessary consequence under this Section, but I think some provision should be adopted to require that course to be taken. The Legislature ought to be made incapable of adjourning *sine die* until the presiding officer had signed the bills which had been passed. I simply make these remarks with the hope that some member of the Convention may suggest an adequate remedy.

Mr. BUTLER. I move to amend the amendment by adding, "and the bill as refused to be signed, shall not be invalidated by said refusal."

Mr. SETZER. The position has been taken upon this floor that by the refusal of a presiding officer to sign a bill, a veto power is placed in the hands of that presiding officer. Well, sir, I think such should be the case. He may be removed for his refusal, and another elected who will sign the bill. But, sir, it seems to me the picture has been presented to our view all on one side. The gentleman from Nicollet has shown us the evils which will result from a presiding officer refusing to sign a bill; and what do they amount to? Simply, that the bill will not at that time become a law. The remedy is at hand; by the removal of the presiding officer and the substitution of another, or if the bill has to be passed again subsequently, the interests of the people do not suffer by it seriously. On the other hand, if you allow the certificate of the Clerk or Secretary to be taken as sufficient evidence, you will have your records imperfectly authenticated, and the interests of the people will be much more likely to suffer in consequence than by the postponement of the passage of the bill to another session.

Mr. A. E. AMES. I hope the Section will be amended by substituting the word "neglect" for "refusal."

Mr. MEEKER. I think the gentleman who proposes that amendment does not reflect on its consequences. The presiding officer

may neglect to sign a bill from forgetfulness or oversight, and to require him to incur all the penalties prescribed in this Section for such neglect, it seems to me would be too severe a punishment.

Mr. SETZER. Before the question is taken, I will simply state that I have known instances where the Committee on Enrolled Bills reported a different bill from that which passed both Houses. Such a case occurred during the last session. Who is to blame if the Speaker refuses to sign such a bill?

Mr. SIBLEY. A bill so presented could not be a bill which had passed both Houses.

The amendment to the amendment was not agreed to.

Mr. CURTIS. I move to amend by adding "and in case of such "refusal, each House shall provide by rule the manner in which such "bill shall be properly certified for presentation to the Governor."

Mr. MEEKER. I hope the gentleman will recollect that we are here providing the fundamental law of the State, and should not pass upon provisions so important as this without clearly understanding them. Sir, what is the difficulty of which complaint is made? Is it anything which can be remedied by anything we can insert in this Constitution? The only difficulty apprehended is that the Speaker will not do his duty. Well, sir, if he fails to perform it, it is in the power of the body over which he presides at once to remove him and place somebody in his place who will discharge his obligations of office. That is the remedy, and, it seems to me, is adequate.

Mr. BROWN. I would inquire of the gentleman how the Senate would go to work to remove its presiding officer, who is the Lieutenant Governor of the State?

Mr. CURTIS. And I would enquire how the House is to apply the remedy when its Speaker refuses to sign a bill at the very close of a session?

Mr. MEEKER. It is perfectly within the control of the House to remove its Speaker at any time. With regard to the presiding officer of the Senate, his removal would be a little more difficult; but we could place a provision in the Constitution which should declare the office of Lieutenant Governor *ipso facto*, vacated upon his refusal to discharge his official duty. It seems to me the remedy is very easily reached.

Mr. SIBLEY. We have the remedy already provided for.

Mr. MEEKER. Then there is nothing to contend about.

Mr. FLANDRAU. Gentlemen already, upon the sober second thought, begin to see that they are running into a labyrinth of difficulties from which they cannot extricate themselves, by under-

taking here in the Constitution to provide rules for the Legislature. I appreciate the difficulty of gentlemen who have committed themselves to this course of policy in maintaining their consistency, and at the same time preserving us from the commission of a great error by that course. I tell gentlemen again, that this whole thing of interfering with the rules of the Houses of the Legislature is one that will involve us in difficulty, whatever provisions are adopted to prevent it.

The amendment was agreed to.

Mr. CURTIS. I move to amend Section 22 by striking out the latter clause, as follows:

"At each of said sessions, the Legislature may prescribe the qualification of voters within this State."

I make the motion for the reason that it has been thought a matter of sufficient importance to provide in the Constitution what shall be the qualifications of voters until 1865, when you propose to allow the Legislature to amend the Constitution. Now, I apprehend the same reason will exist then for continuing the qualifications of voters a constitutional provision, that now exists for making such a provision. I propose, therefore, that if it should become necessary to amend the Constitution in this particular, it should be accomplished by the same means as other amendments to the Constitution, which subject is under the charge of another of the Standing Committees of the Convention.

Mr. BROWN. I find that in this report I have trenched upon the rights of a number of the Standing Committees. In the 13th Section, which provides that the style of all laws of this State shall be, "*Be it enacted by the Legislative Assembly of the State of Min-nesota,*" it may be said that we have assumed the name of the State without waiting for the Committee on Name and Boundaries to report. In this instance the gentleman from Washington (Mr. CURTIS) says we have provided for amending the Constitution.

Now, sir, it seems to me that without the necessity of going through the ordinary forms of amending the Constitution, the people should have the right at stated periods to say through their representatives what shall be the qualifications of voters. If the question is submitted directly to the people, they will have to vote for or against the particular words which may be submitted. Now, sir, it seems to me much better that the qualifications of voters for the adoption of the Constitution shall be prescribed in the Constitution, and then allow the people through their representatives, at every uneven period of five years, to make such changes as may seem expedient. I think that is Democratic doctrine, and I hope, therefore, the amendment will not prevail.

Mr. CURTIS. Let us examine the proposition for a moment and see where it would lead to if applied to any other subject matter which it has been thought necessary to provide for by a grave Constitutional provision. Is there anything as to which the gentleman is more tenacious of providing for in this Constitution, than to define the right of suffrage? I apprehend there is nothing of more importance which will come before us. Why not, then, allow the Representatives of the people, every five years, to take into consideration the Bill of Rights and every part of the fundamental law of the State, and determine what it shall be?

Mr. BROWN. I should, for one, be decidedly in favor of the proposition. But in reference to this matter of the qualifications of voters, I think it is essential that the Representatives of the people should, at stated periods, have the power to make such modifications as shall accord with the genius of the times.

Mr. EMMETT. I hope the motion of the gentleman from Washington will prevail. I do not want to see this Convention dodge any question that is properly before us. Now, sir, if there was any question which entered more largely than any other into the contest pending our election to seats in this Convention, it was as to what shall constitute the Right of Suffrage. Sir, I want gentlemen to come right up and make their mark upon the question. I want them to say, unequivocally, whether they are in favor of Negro Suffrage. If you allow the Legislature—if such a one should chance to be elected in 1865—to say that Negroes, and the descendants of Negroes shall have the right to vote, you will find it a difficult matter, when once that right is established, to shut that class of people out afterwards. I want every member to come right up and vote yea or nay upon this question. I, for one, am ready for striking this clause out, and then I am ready to vote that the right of Suffrage shall never be extended to the Negro race.

Mr. BROWN. Before the gentleman makes his speech I ask him to allow me to offer this amendment to be added to the section:

But no person of Negro blood shall be allowed the Right of Suffrage, or of holding office.

Mr. BAKER. There is only one point in this report upon which I have anything to say, and that is right here. I do not think I have any black constituents, or shall be in danger of ever having black representatives; but I want this Convention to decide, and decide now, who are to be the voters. I want it to be understood, clearly, that I know of no difference amongst White men. I make no distinction against a man whether he is born in Ohio, in Nova Scotia or across the waters; but I want the people to decide at this first election who the voters are to be.

Mr. A. E. AMES. I desire to enquire of the Chairman of this Committee, how he is to decide what persons contain Negro blood? I know of no rule by which the Judges of Election can determine. If the gentleman will present some criterion by which that fact can be ascertained, we can then act safely.

Mr. BECKER. I would suggest to the gentleman from Sibley, who offered this amendment, that we are now in Committee of the Whole, considering the Article on the Legislative Department, and he has led us off on the question of the Right of Suffrage. The amendment offered by the gentleman from Washington, (Mr. CURTIS,) I think is a very proper one, and I hope it will be adopted. Further than that, I can see no necessity for going on this subject at present. When the report of the Committee on the Right of Suffrage comes properly before us, it will then be the time to take the subject of the qualification of voters into consideration.

Mr. BROWN. As far as the question of propriety is concerned, I am desirous that such a provision as I have reported shall be inserted somewhere in the Constitution, and I see no reason why it may not as properly come in here as at any other point.

Mr. WAIT. It seems to me the most proper time to consider this subject will be when it is regularly before us in the report of the Committee on the Right of Suffrage.

The amendment to the amendment was disagreed to.

The original amendment was agreed to.

Mr. BECKER. I move to amend Section 22, by adding at the end thereof, "Senators and Representatives shall be elected by "single districts."

Mr. BROWN. Would the gentleman apply that rule to the election of Representatives in this city.

Mr. BECKER. I would apply it everywhere. Where there are inhabitants enough to elect a Representative, let them elect him; and where there are inhabitants enough to elect a Senator, let them elect him, the same as is now done in the election of members of Congress.

Mr. SETZER. I think that would be a wise provision for the Legislature to adopt. But sir, we have now no census to go by, and most of us are not sufficiently well aquainted all over the Territory to make an apportionment by single districts.

Mr. BROWN. If I had not heard the interpretation of the provision contemplated, as given by the gentleman who offered it, I should not have known what it meant. In all probability there may be persons in the Legislature of as weak minds as myself, who may not understand what it means. They will not know

whether it means by counties or what is the proper interpretation of "single districts." I cannot see any necessity for the incorporation of any such provision into the Constitution. Of course, the Legislature when they come to make the apportionment upon the ascertained population of the Territory, will make the districts as small as possible, so as in the election both of Senators and Representatives to bring the vote down as close to the people as is practicable. But suppose you take a populous county entitled to elect one or more Senators, and two or three or more Representatives, and how can you elect them by single districts? Will there not be a question under the provision, whether you can put two counties together or not? I can see no good result which can come from the adoption of the amendment, and I can see a good deal of misunderstanding which may ensue.

Mr. BECKER. I grant, there may be some little objection to placing the provision I have offered in this section, but I did not suppose a single member of this body would object to what is called the single district system. I believe all the Constitutional Conventions which have been held in any of the States, have provided the single district system in the election of Senators; and the same rule has been adopted in the election of members of Congress. The object of its adoption will be apparent at once. It brings the Representative nearer the people. It makes him the immediate recipient of their votes and sentiments, and makes him responsible directly to them. I can see no difficulty in adopting it for the government of the Legislature of this State. Under a former Section of this Article you have made provision by which perhaps 30 Senators, and 60 Representatives will be elected. Now sir, I can see no difficulty in dividing up the Territory into that number of districts. I think the provision is a wholesome and important one, and I hope it will be adopted in this Constitution.

Mr. FLANDRAU. I ask the gentleman whether that amendment means that the member shall be a resident of his district and shall be voted for by nobody but his constituents, or what it means? I do not fully understand the purport of it.

Mr. BECKER. The gentleman is aware of the system adopted in the State of New York.

Mr. FLANDRAU. Of course.

Mr. BECKER. Well, the amendment provides for precisely the same system as that adopted in New York and Michigan.

Mr. BROWN. As far as the apportionment is concerned, what would answer very well in the State of New York, and that of Michigan, would be utterly worthless here. For instance, in the

State of New York, the same districts apportioned off ten years ago probably stand now. There is not that necessity for change there, that there is here. In a country like this, where the population is so rapidly increasing, and changes in the apportionment so often required, I do not see how the rule laid down by the gentleman can well be adopted.

Mr. BECKER. There are some evils connected with our system as it now stands, evils which need only to be pointed out to be recognized by every gentleman present. The district in which I reside, embraces two separate sections of country, a portion of it is situated in the city of Saint Paul, and the remaining portion in the country outside, having no sympathy at all with the city. I have no doubt there are others here representing districts similarly situated. Now sir, Dakota county is entitled to six members, but I have no doubt the wishes of the people would be much better represented by electing them from single districts, than to elect the whole six from the county at large. I think the amendment is right, and hope it will be adopted.

The amendment was disagreed to.

On motion of Mr. SETZER the Committee rose, reported progress and asked leave to sit again.

Leave was granted.

Mr. BECKER presented a report from the Committee on the Name and Boundaries of the State; which was laid on the table.

On motion of Mr. GORMAN the Convention then at ten minutes before five o'clock adjourned.

TWENTIETH DAY.

WEDNESDAY, August 5, 1857.

The Convention met at nine o'clock, A. M.

Prayer by the Chaplain.

The Journal of yesterday was read and approved.

LEGISLATIVE DEPARTMENT.

On motion of Mr. SETZER, the Convention resolved itself into Committee of the Whole, Mr. NORRIS in the Chair, and resumed the consideration of the report of the Committee on the Legislative Department.

Mr. SETZER. I move to strike out the word "one" and insert "two," and strike out "two" and insert "four" where they occur in the following section:

SEC. 23. Members of the House of Representatives shall be elected to serve for one year, and members of the Senate shall be elected to serve for two years.

I do not suppose the amendment will carry. It involves, as will be seen, the principle of biennial sessions. I hold that all the necessary business of legislation in this State, can be very well transacted with biennial sessions. The case of nearly all the States has been too much legislation. If the amendment is adopted representatives will then be elected for two years and Senators for four years.

Mr. SIBLEY. I am individually in favor of the principle of biennial sessions, but I understand upon good authority, that in the States where they have been adopted, it has been a matter of regret upon the part of the people. They have been almost universally pronounced a failure. Such is the case in Indiana, Illinois, Ohio, and Michigan. In conversation with gentlemen who have had a good deal to do with these matters, I learn that the practice of holding biennial sessions of the Legislature is no longer regarded with favor in any of these States, and that the people are anxious to have their Constitution amended so as to substitute annual for biennial sessions. It is in view of these facts, that I am induced to believe we had better provide for annual sessions. I understand the gentleman to say that he does not wish to change the tenure of office of Senators and Representatives except to provide for the contingency of biennial sessions, and I would suggest therefore, that he withdraw the amendment for the present, until that question has been first decided upon.

Mr. BROWN. The Committee has already passed upon the subject of the sessions of the Legislative Assembly. We have said in one section of this act, that the Legislative Assembly shall meet at such times as may be provided by law. It is competent then for the Legislature to determine for itself how often the public service requires it to meet. If they decide that biennial sessions only are required, there need be no change in this provision, for it will be competent for them to provide for elections to conform with such a regulation.

Mr. SIBLEY. I am decidedly opposed to leaving it to the Legislature to determine how often they shall assemble. They might determine to sit three fourths of the time. I think we ought to determine here whether the Legislature shall meet annually or biennially. If that feature is incorporated into any portion of this Article which we have passed, I hope the Committee will strike it out. Legislatures always manifest a disposition to protract their sessions. The difficulty has hitherto been to restrict the sessions

to any reasonable time. I hope no provision will be incorporated into this Constitution leaving the whole matter at the discretion of the Legislature.

Mr. SETZER. I cannot agree with the gentleman from Sibley, (Mr. BROWN,) that if the Legislature should adopt biennial sessions it would be competent for them to change the system of annual elections provided for in the Constitution; nor do I believe that a House of Representatives elected for one year can adjourn over to the next year without giving those to be elected that next year, a chance to try their hands. Now, Sir, if we provide for annual elections, annual sessions must be held. I think that provision should be made in the Constitution for biennial sessions only.

Mr. MEEKER. With the gentleman from Dakota, (Mr. SIBLEY,) I am decidedly in favor of fixing the periods of meeting and the duration of the Legislative sessions in the Constitution. I do not think it is a matter which should be left to the discretion of that body. And with the gentleman from Washington, (Mr. SETZER,) I am decidedly in favor of biennial sessions. That feature has been adopted I believe into the fundamental law of all the western States. If that feature should be adopted by this body, it will certainly become necessary to adopt the change suggested, in respect to our elections by the gentleman from Washington, in the amendment which is under consideration. What, sir, elect Representatives annually to sit biennially! It looks like electing two sets of Representatives for one session of the Legislature.

Mr. SIBLEY. The gentleman is mistaken. There is no such proposition.

Mr. MEEKER. That was the reasoning of the gentleman from Sibley.

Mr. BROWN. I beg the gentleman's pardon. I stated no such proposition.

Mr. MEEKER. I am glad of it. I so understood the gentleman, and I thought it resulted from the disposition the gentleman has occasionally manifested to adhere to the course first marked out by him, whether right or wrong. I am very glad he has consented to take one step backwards. Sir, I think the people of this Territory will demand biennial sessions of the Legislature. It would be a saving of certainly $100,000 annually, and the Legislature will as well attend to the wants of the people by holding sessions once in two years as by annual sessions. Such has been the usage in Kentucky, in Illinois, in Iowa, in Tennessee, in Missouri, and in several of the other States, and why should Minnesota be an exception? Why, sir, if they were to have sessions every six months, about so

much time would be consumed every session. Nothing would be done until the last week of the session, and then all the business would be done in a batch.

We have made such progress in the science of legislation that one session of the Legislature under the Constitution which we shall form, will be sufficient to codify the laws and transact all the bussiness necessary to be transacted by the Legislature for two years, and if anything occurs in the time to make it necessary, let the Governor call an extra session.

This is a subject upon which I have conversed with the people more or less, and as far as I have heard, they have expressed but one voice, and that has been in favor of sessions once in two years, both on the score of economy and stability in legislation. That, sir, is the opinion to which this western world, and eastern too, is coming with great unanimity. I am decidedly in favor of the amendment of the gentleman from Washington.

Mr. WARNER. I am entirely in favor of the amendment proposed by the gentleman from Washington. Having been formerly a resident of Ohio where they have adopted biennial sessions and witnessed its operation, I am strongly of the opinion that they are for the best interests of the people. As has been remarked, our great trouble is in consequence of having too much legislation. I hope the amendment will prevail.

Mr. EMMETT. I also too, happen to be from Ohio, where they have adopted the practice of biennial sessions, and I know equally well that they are sick and tired of them. They are almost unanimously anxious to return to annual sessions. Ever since the adoption of the Constitution they have had special sessions during every recess. I was there two years ago, and there seemed to be but one voice on the subject, and that was in favor of annual sessions. So far as my own opinion is concerned, I would rather have sessions twice a year than once in two years.

Mr. MEEKER. I would enquire of the gentleman, if he has resided in the State of Ohio since the adoption of their Constitution.

Mr. EMMETT. I have been there since that time and have made especial enquiry as to the effect of the adoption of this provision. I have recently conversed with a gentleman from that State, who has been a member of the Legislature, and he says there is but one voice in Ohio upon the subject, and that is in favor of annual sessions.

Mr. A. E. AMES. I have been a resident of the State of Illinois, where they formerly held annual sessions. Under their new Con-

stitution, however, they are required to hold biennial sessions only; but the plan has not worked well there. They have been compelled frequently to hold special sessions. Here in Minnesota, it seems to me, at any rate for the first ten or twelve years, annual sessions will be required. After that, when our affairs become more settled, perhaps it may be well to try biennial.

Mr. SETZER. I submit that the arguments of the gentleman from Saint Paul, (Mr. EMMETT,) and from Hennepin, (Mr. AMES,) prove nothing in favor of requiring annual sessions to be held. These gentlemen tell us that in Ohio and Illinois, where they have provided in their Constitution for biennial sessions only, special sessions have frequently been called, and annual sessions have been held. Now sir, that is all very well. When the business of the State requires annual sessions, let them be held, but all must submit that there will sometimes periods occur when annual sessions are not required. Then why provide in your Constitution that sessions shall be held annually, whether they are needed or not? We all know what excessive legislation is carried on in nearly all the States—how laws are enacted and repealed, and re-enacted, session after session, and into what confusion the laws are thrown from the continual change. I think it will certainly be unwise in us to require annual sessions to be held.

Mr. A. E. AMES. I think this is one of the most important subjects that we shall have before us; and hence I am very glad the gentleman from Washington has offered an amendment which has brought the subject up for consideration at this time. I however, cannot, for a moment, advocate such an amendment, either in Committee or in Convention. So far as I have been able to learn, in all the Western States where the practice of holding biennial sessions has been adopted into their Constitution, it has been disregarded almost invariably, and I think that will be the effect of adopting such a provision into our Constitution. Either from some real or supposed necessity, the Legislature will meet every year. The principle of holding biennial sessions may be a very good one to apply to the older States where their institutions and laws are settled, and where there are but few changes of population; but I should be unwilling to adopt it into the organic law for this country, where new territory is so rapidly settling up and changes are so constantly going on requiring the care and attention of the government. I do not think in the State of Minnesota, a Legislature assembling only once in two years could possibly meet the wants of the people. I am therefore unwilling that such a provision should be adopted.

But sir, while I am in favor of annual sessions, I am also in favor of limiting them to some specified period. I would suggest to the Chairman of the Committee, whether it would not be well to amend his report in the first section or in some other section, so as to limit the sessions of the Legislature to forty, fifty, sixty, or any other number of days which may be deemed advisable.

Mr. BROWN. The first section of the report provides that "the "Legislative Department of the State shall consist of a Senate and "House of Representatives, who shall meet at the seat of Govern- "ment of the State at such times as shall be prescribed by law." That authorizes the Legislature to make such provision for the meeting and duration of the sessions as in their opinion the exigencies of the State may require. If it is deemed proper that there should be annual sessions, the law will so provide; if it is deemed necessary that there should be only biennial sessions, with power vested in the Government to call extra sessions, the law will so designate; if the first Legislature should provide for annual sessions, and it should be afterwards deemed by the people that biennial sessions are all that is necessary, they will so provide through their representatives in the Legislature. There is where this Report leaves the matter, and there is where in my opinion it ought to be left. I presume that, for the first few years, annual sessions may be required, and that after a time the exigencies of the public will only require biennial. We cannot now designate the time when such a change will be desirable, and I therefore prefer to leave it to the people through their representatives when the time arrives. Now, in reference to the election of Representatives to serve one year, and of Senators for two years, upon which the gentleman from St. Anthony (Mr. MEEKER) says I have taken a step backwards, I say to that gentleman that I hold precisely the same opinion which I assumed when the question was up before. There may be biennial sessions and still the members of the House of Representatives may be elected to serve one year and the members of the Senate elected to serve two years without incurring any difficulty whatever. By saying that members shall be elected to serve one year it does not necessarily imply that they shall be elected annually. If the Legislature provide for biennial session, they will of course change the law for the election of members of the House of Representatives so as to allow an election only once in two years. The Senators who are elected for two years would of course serve for only one session, the same as members of the House of Representatives.

Mr. SETZER. Suppose that during the year in which there was

no session provided for, some exigency should arise from which the Governor should call an extra session, what House of Representatives would he call?

Mr. BROWN. He would call the members elected, of course.

Mr. SETZER. But the members are elected for only one year, and their term would have expired.

Mr. BROWN. That would be provided for by law. Of course, the Legislature would make provision for such an emergency.

Mr. A. E. AMES. I am opposed to leaving this matter to the discretion of the Legislature. It is a matter, in my opinion, of sufficient importance to be regulated by the Organic Law of the State. I think the Constitution should determine how frequently and for how long a time the Legislature shall meet. If you leave it to the Legislature to determine, confusion must necessarily arise. In the first place, you would have sessions of the Legislature extending through nearly the whole year. If you neglect to affix some limit in this Constitution to the length of sessions, you will make your Legislatures odious to the people. Then, a Reform Legislature would be elected, who would perhaps go to the other extreme of providing for biennial sessions and limiting them to a period in which it would be impossible to transact the public business. So, you would have your Legislature vibrating from one extreme to the other, and your public affairs would become involved in the most inextricable confusion. I believe this is the place to determine whether you are to have annual or biennial sessions. It is a matter which is provided for in the Constitution of every State.

Mr. EMMETT. One word in reply to the gentleman from Washington, (Mr. SETZER.) He seems to think the state of facts mentioned in the State of Illinois is an argument in favor of biennial sessions. I think otherwise. He thinks the only necessity there is for annual sessions arises from improvident legislation, or from the exigencies of the times. Now, if a law has been improvidently passed, the sooner we get rid of it the better. We do not want to have it remain on our statute-books for two years. But if it is a good law, the Legislature will certainly not stultify themselves by repealing it. If members are elected for two years and biennial sessions provided for, we have no certainty that the Legislature will be called together when such an emergency as ought to require it arises. And again, it may very likely happen that when such an emergency arises it is upon some issue which has arisen since the members were elected, and they will not necessarily represent the wishes and sentiments of the people upon

that question. For these reasons, among others, I think we should at least have annual sessions. I think, as I remarked before, that it would be better to have sessions twice a year than only once in two years. When new issues arise, we want legislators to act upon them fresh from the people—men who were elected upon those issues. It does seem to me that the experience of other States ought to admonish us that the oftener our legislators are brought fresh from the people, the better it will be for the people. I concur with the gentleman from Hennepin (Mr. AMES) that there is a peculiar fitness about having annual sessions of the Legislature here in Minnesota. In the older States,—where their institutions, their habits, their laws and their population have become settled,—there may perhaps be some show of reason for only biennial sessions; but here in Minnesota, with the constant important changes that are going on, the Legislature should certainly meet annually, and the members should be elected annually.

[Cries of "Question!" "Question!"]

Mr. HOLCOMBE. It strikes me that whatever may be said in favor of biennial sessions in the older States, at this stage in the age and progress of Minnesota we should have annual sessions of the Legislature. There are peculiar advantages in annual meetings of the Legislature in new States. Why, sir, our party chains which bind us together would become rusty if they were to lie by unused for two years. We want, at any rate, to get together at least and compare information relative to the progress of the different sections of the State. We want to hear of the development of the agricultural and other resources of every part of the State. We should certainly have annual sessions at this early stage of our history.

Mr. SETZER. I am certainly astonished at the view taken of the duties of a legislator by the gentleman from Stillwater. I had supposed that legislators had something else to do besides discussing agricultural prospects. That information can be obtained from the papers, without going to the expense of requiring the meeting of a session of the Legislature.

Mr. MEEKER. I dislike to prolong this discussion, but, sir, it seems to me that the course of argument pursued by those who have advocated the policy of holding annual sessions has been predicated upon the supposition that the object of a Legislature is for something else than the good of the people. It has been said that biennial sessions will do for the old States but not for the new. Now, sir, in a large portion of the old States annual sessions are still held, and why? It is because the Legislature is made more to

subserve the interests of the politicians than the people. They want to keep the political cauldron boiling. Another reason is, that the assembling of the Legislature is a benefit to the locality where it meets. In the State of Kentucky, where I once resided for a good long time, so long as the Legislature continued to meet annually their Capital was a flourishing place; but when a change was made, and biennial sessions only held, the business of Frankfort was brought to a stand-still—boarding-houses, hotels and places of amusement were thrown out of employment. So it will be everywhere. So long as annual sessions are held the places of meeting of the Legislature will be built up, politicians will flourish out of the constant agitation which they succeed in keeping up, but it will all be at the expense of the people.

[Cries of "Question!"]

Mr. CURTIS. I do not wish to prolong this discussion, but I merely wish to say that I shall vote against any proposition for biennial sessions, and at the same time, I wish it to be distinctly understood that I shall not do it for the purpose of promoting the interests of the hotels and theatres of the seat of government. Nor should I do it for any such reason were the Capitol located at the place where I reside. But, sir, I think the legitimate business of the people requires that annual sessions should be held. And if there is anything in precedent, the fact that at least three-fourths of the States in the Union hold annual sessions, is very much in favor of annual sessions in Minnesota.

The amendment was disagreed to.

Mr. BAKER moved to strike out Section 24, as follows:

SEC. 24. Senators and Representatives shall be citizens of the United States, and shall have resided for one year in the State, and six months immediately preceding the election, in the District from which they were elected,

and to insert in lieu thereof:

SEC. 24. Senators and Representatives shall be white male persons who have resided in the State and District six months previous to election, or civilized male inhabitants of Indian descent.

The amendment was disagreed to.

Mr. MEEKER. I move to strike out Section 26, as follows:

SEC. 26. No Bill shall be passed by either House, embracing any subject not referred to in its title,

and insert in lieu thereof, the following:

SEC. 26. No law shall embrace more than one subject, which shall be embraced in its title.

My object in moving this amendment, is to guard against a practice which has been to a greater or less extent, prevalent in this Territory, as well as in other States, of grouping together several

different subjects in one bill, and passing them through by means of a system known as log-rolling.

The amendment was agreed to.

Mr. BECKER. I wish to offer a separate Section to come in after Section 26, in these words:

Divorces shall not be granted by the Legislature.

The amendment was adopted.

Mr. BROWN offered the following as a separate Section to come in after Section 21:

No Bill shall be passed by either House of the Legislative Assembly upon the day prescribed for the adjournment of the two Houses. But this Section shall not be so construed as to preclude the enrollment of a Bill or the signature and passage from one House to the other, or the reports thereon, from Committees, or its transmission to the Executive for his signature.

The amendment was adopted.

Mr. EMMETT moved to amend Section 1, by striking out all after the word "State," and insert in lieu thereof, "on the first Monday "of each year."

Mr. KINGSBURY moved to amend the amendment by adding, "and no session shall extend beyond 60 days."

Mr. SETZER suggested that the amendment should be so modified as to read, "annually on the first of December in each year."

Mr. BECKER. I would suggest that the first Legislature which meets will certainly require more time than sixty days to discharge the business which will come before them. That Legislature will probably have to revise our code of laws. We certainly ought not to limit them, and my opinion is that no body of men who will assemble here as a Legislature, will extend their session beyond the period necessarily required for the transaction of the public business. I cannot see what incentive there will be to remain longer. Certainly the $3 per day will be no inducement. I am opposed to any limitation.

Mr. SIBLEY. I rise to a question of order. I submit that all these amendments are out of order. The Convention has gone through with the report section by section, and nothing is now in order except the adoption of the Article as amended. If we are to begin and go over with the report again to amend it, the work will be interminable.

Mr. SETZER. The Chair declared the whole Article to be before the Committee, as I understood him.

The CHAIRMAN. In the opinion of the Chair, the Committee have the right to review their action if they see proper, and the Chair decides the amendments to be in order.

Mr. MEEKER. I am in favor of the amendment. I think two

months is long enough for any Legislature to transact the business before it. Every Legislature really does all its business in less time than that. The Congress of the United States always crowds the business of the whole session into the last four or five weeks. I think two months is amply long time enough for our Legislature to transact all its business, and I am in favor of the limitation.

The amendment was agreed to, and the amendment as amended adopted.

Mr. BUTLER. I move to amend by adding, "after its first session."

I suppose the first session of the Legislature will require more than sixty days.

Mr. BROWN. I would suggest that the first Legislature will, in all probability, have the apportionment of the State under the new Constitution to make, and very likely the revision of the laws will have to go over until the next session. It will be better to except at least two Legislatures.

Mr. BUTLER. I will modify my amendment then, so as to make it from and after the year 1860.

The amendment was not agreed to.

Mr. BROWN. I now propose an additional Section to come in after Section 1, as follows :

SEC. 2. When, in the opinion of the Governor, or the person performing the duties of Governor, an Extra Session of the Legislative Assembly may be deemed necessary, such Session may be called by Proclamation, giving thirty days' notice thereof, but no Extra Session shall extend beyond the period of twenty days.

Mr. SIBLEY. I move to amend the amendment by striking out all except the words,

SEC. 2. No Extra Session shall extend beyond the period of twenty days.

I ask the gentleman if the substance of his amendment is not embodied in the report of the Committee on the Executive Department?

Mr. BROWN. It properly belongs to both Departments. It may properly come in here because the preceding Section provides for the regular Sessions of the Legislature, and it is as well to provide for Extra Sessions in the same connection. I think this is the most proper place to incorporate it.

Mr. SIBLEY. The report of the Committee on the Executive Department prescribes the duties of the Governor, and among other duties is that of calling an Extra Session of the Legislature whenever it may become necessary. And inasmuch as the Article on the Executive Department will naturally precede this in the Constitution, I think there is a propriety in having this provision

inserted there. It would be very well, however, to have the Extra Sessions which may be called, limited in this Article, in the same connection with the regular Sessions, and I am willing that so much of the amendment shall remain.

Mr. EMMETT. I move to substitute for the whole amendment, the following:

Extra Sessions of the Legislature may be provided as in this Constitution, but no Extra Session shall extend beyond twenty days.

Mr. GORMAN. I think the phraseology of the substitute is preferable to that of the amendment, but I am opposed to limiting the length of an Extra Session to twenty days. The occasion for calling an Extra Session should be one of great importance, such as war, or some public disturbance which should require great deliberation. It may become necessary to call an Extra Session in consequence of some great commercial crisis, and it certainly should not be limited to twenty days, nor in my opinion, should it be limited at all.

Mr. SIBLEY. I decidedly disagree with the gentleman who has just spoken on this subject. I think these extra sessions are always called upon some specific subject, to attend to some particular business that can as well be transacted in 20 days as 100. We have provided regular sessions for the transaction of the regular business of the State, and I can conceive of no state of things which would justify the Governor in calling an extra session which should extend beyond the time fixed in the amendment.

Mr. EMMETT. I have so modified my amendment as to leave it in blank.

The CHAIRMAN. The Chair is of the opinion that the substitute for the amendment is in the nature of an amendment in the third degree, and therefore not in order.

The amendment to the amendment was agreed to, and the amendment as amended adopted.

Mr. EMMETT. I now move that the amendment which has been adopted as a separate section, be added to section one.

The motion was agreed to.

Mr. McGRORTY moved to amend section 24 by inserting after the words, "United States," the words, "or who have declared their "intentions to become such, conformably to the laws on the sub-"ject of naturalization."

Mr. MURRAY. I do not propose to discuss this matter now. I call the attention of the mover of the amendment to the fact that the Committee on the Right of Suffrage, have this matter properly in charge. So far as I am concerned, I am willing that any per-

son who is entitled to vote, shall be entitled to hold office. I do not propose to make any distinction, and I would suggest to the gentleman, therefore, that he withdraw his amendment, and move to strike the whole section out.

Mr. McGRORTY. As I understand the section now drafted, none but citizens of the United States will be eligible to election to the Legislature. It requires a residence in the country of five years for a foreigner to become a citizen of the United States, and I think, therefore, my amendment should be adopted.

Mr. M. E. AMES. I am in favor of the amendment of my colleague, if it is necessary ; but I arise to ask the Chairman of the Committee on the Legislative Department, whether the whole of section twenty-four is not unnecessary and superfluous in this Article? It strikes me that it might very properly be stricken out and inserted under the head of "Qualifications."

Mr. BAKER. I am certainly in favor of striking out the section, or of adopting the amendment of my colleague. For my part, I can see no reason why a person of foreign birth, who has declared his intention to become a citizen of the United States, is not as well qualified to hold office as a native-born citizen. I see no reason why you shall deprive me from sending a man whom I may select to represent me in the Legislature, because he has not been in the country five years. I want no such distinction to be made either for the voter or office-holder.

Mr. MURRAY. I now make the motion to strike out the whole section, and let the qualifications be made to conform to those which we shall establish on the Right of Suffrage. I think the two should go together—I want no distinction. If we provide that a foreigner who has declared his intention to become a citizen of the United States may have the right to vote, I say, let him also be entitled to hold office. I want no distinction between the two.

Mr. M. E. AMES. I will enquire of my colleague who last spoke, whether the qualifications of members of the Legislature, can properly come under the head of qualifications for electors.

Mr. MURRAY. The Committee on the Right of Suffrage will undoubtedly report that persons qualified to vote shall be qualified to hold office.

Mr. EMMETT moved to amend the amendment by striking out of section twenty-four the words, "citizens of the Unites States," and insert in lieu thereof the words, "qualified voters of the "State."

Mr. BAKER. How do you know what will be the qualifications of voters?

Mr. EMMETT. I do not care, for this purpose. I want to enunciate the principle that persons who are entitled to vote shall be entitled to hold office.

Mr. SETZER. There is, and should be, a great difference between being qualified to vote and being qualified to hold any office. There is a distinction made in the Constitution of the United States, and in the Constitutions of all the States.

Mr. MURRAY. No difference, I believe, except with regard to age.

Mr. SETZER. That is not the only distinction. The Constitution of the United States prescribes that no person shall be qualified to hold the office of President unless he is a native-born citizen of the United States. It provides that no person shall be qualified to become a member of the House of Representatives of the United States, unless he shall be a native-born citizen of the United States, or shall have been a citizen seven years. And it further provides that no person shall be qualified to become a Senator of the United States, unless he be a native-born citizen of the United States, or shall have been a citizen of the United States for nine years. The right to vote and the right to hold office have never been placed upon an equality, and, in my opinion, should not be. It is certainly proper that a person should remain in the country long enough to become acquainted with the principles of party and the issues which are before the country, before he is allowed to take part in making the laws which are to govern us. Men who are to make our laws, ought to understand for themselves, the principles of our institutions, the relations of the Federal to the State Governments, and *vice versa*. It requires a man to have been some time in the country to be able to understand all our complex machinery of government. I think a foreigner should, at least, become a citizen of the United States, before he shall be qualified to hold a seat in our Legislature.

Mr. BAKER. I hold that people have the right to make their own selection for the man who shall represent them in the Legislature, and I object to the application of any test whatever. In Connecticut, it is made a test that a man shall read and write correctly to qualify him to vote; and yet sir, on an examination of the Governor's message some fifteen or twenty grammatical errors were found in it. I have known many foreigners who have been in the country six months, who understood our institutions better than others who were native born citizens. I do not want to see any such distinction as a residence of five or seven years made. It is an old fogyish doctrine. Any free white male citizen of Minnesota

coming from across the water is as good a citizen, and understands our institutions in Minnesota, as well as if he came here from the State of Massachusetts.

Mr. McGRORTY. When I offered this amendment, I did not do it with a view of creating any distinction in favor of foreigners, nor do I wish to do so now. I thought that when a foreigner had come to Minnesota to reside, and had renounced all allegiance to foreign princes and protentates, he should be entitled to all the rights and privileges of a citizen. It does not follow that because a man has resided in this or any other Territory five years, he understands our institutions any better than others who have resided here but one year. I hold that the persons who emigrate here from Europe are not all fools, and do not learn all they ever know after they get here. I know many persons who were well aquainted with the institutions of this country before they came here. I am a little surprised that the gentleman from Washington, who is generally an advocate of equal rights, should object to allowing foreigners who have declared their intention to become citizens of the United States, to become candidates for seats in the Legislature.

Mr. SIBLEY. I think this discussion shows very plainly that we are leaving the subject legitimately before us, and involving ourselves in another subject which is in charge of another standing Committee, and with which we have now nothing to do. I have no idea that any member of this Convention, has any disposition to deprive any foreigner of a single right which he ought to possess. When the subject of the Right of Suffrage comes legitimately before us, I have no doubt that we shall make provisions sufficiently liberal to satisfy every one. I hope the whole Section will be stricken out, and let the subject come up where it belongs.

Mr. EMMETT. The greatest object I had in view in proposing my amendment, was for the purpose of diverting this discussion to where it belongs. I think it is enough to say that all qualified voters shall be qualified to hold seats in the Legislature, and leave the subject of the qualification of voters to come up and be disposed of in its proper place. I see no reason why a person who is qualified to vote, should not be qualified to hold a seat in the Legislature, but further than that I can see no propriety in going in this Article.

Mr. SIBLEY. I think it would be very well for the Committee having in charge the subject of the Right of Suffrage, to report a provision defining the qualifications for holding office, but I cannot see how such a provision can have any proper place in this Article on the Legislative Department of Government.

Mr. EMMETT. I think the gentleman is in error upon that subject. I think it is necessary in the Article upon the Legislative Department, to define what shall be the qualifications for becoming members of that Department. For instance, we have provided that a member shall reside within his district, which is a qualification, and would not in my opinion appropriately be inserted in any other Article. I think that the qualifications for each particular office, should be fixed in the Article referring to that office, and not outside. I am in favor, therefore, of inserting into this Article, a clause requiring that members of the Legislature shall have the qualifications of voters, and leave it to be decided what those qualifications shall be when the Article on the Right of Suffrage comes up for consideration.

Mr. BROWN. As this has been decided to be a legitimate subject of discussion, and as the question in issue seems to be the proper place to provide for the qualifications of members of the Legislature, I have but this remark to make: If the subject of qualifications has been referred to a Committee to report, I say, let the Committee report, and the proper place for the discussion upon the subject, is when that report is made. Then if any necessary provisions are omitted, we can provide for them afterwards, and insert them when we come to consider the report of the Committee on Revision and Phraseology.

On motion of Mr. HOLCOMBE, the Committee rose, reported progress, and asked leave to sit again.

Leave was granted.

REPORTS OF COMMITTEES.

Mr. GORMAN from the Committee on the Executive Department made a report; which was laid on the table.

Mr. HOLCOMBE, from the Committee on the Finances of the State, Banks and Banking, made a report; which was laid on the table.

Mr. MURRAY made a report from the Committee on the Elective Franchise; which was laid on the table.

The Convention then at a quarter past 11 o'clock, adjourned until half past 2 o'clock, P. M.

AFTERNOON SESSION.

The Convention met at half past 2 o'clock.

LEGISLATIVE DEPARTMENT.

On motion of Mr. A. E. AMES, the Convention resolved itself

into Committee of the Whole, and resumed the consideration of the report of the Committee on the Legislative Department. Mr. NORRIS in the Chair, the question under consideration being on Mr. MCGRORTY'S amendment.

Mr. KEEGAN. I am not in favor of the amendment of the gentleman from Saint Paul. I do not think persons of foreign birth, should have the right to hold office as soon as they arrive on our shores. So far as I know, the foreign born citizens desire no such distinction in their favor. We only wish for the privileges of citizens, after we have resided here for a reasonable time.

Mr. SETZER. I do not know that I have any particular objection to the amendment of the gentleman from St. Paul, (Mr. MCGRORTY,) but I have serious objections to the amendment of the amendment which makes all qualified voters eligible to seats in the Legislature. I understand that a proposition has been reported which will probably be adopted, allowing the Indians who have adopted the habits and customs of white men, to vote. Now, sir, I should have strong objections to allowing Indians to sit as members of the Senate and House of Representatives in the State of Minnesota.

The amendment to the amendment was disagreed to.

Mr. CHASE moved to amend the amendment by striking out of Sec. 24 all after the word "State," so that the same shall read— "Senators and Representatives shall be qualified voters of the State."

Which amendment to the amendment was decided in the negative.

The original amendment offered by Mr. MCGRORTY, was then adopted.

Mr. GILMAN offered the following as a substitute for Section 1, of the Article.

"The Legislative Department shall consist of a Senate and House of Representatives, which shall meet annually at the seat of Government of the State, at such time as shall be provided by law. The compensation of each member of both branches of the Legislative Assembly, shall be fixed at a gross amount per annum."

Mr. GILMAN said — I have offered this amendment for the purpose of relieving the Committee from all difficulty relative to limiting the sessions of the Legislature. If Senators and Representatives are paid by the year, there will be no need of limiting the length of the regular or extra sessions of the Legislature.

The amendment was adopted.

Mr. WAIT. I move to amend Section 7 by striking out the lat-

ter clause, which prohibits the Legislature from increasing their own compensation.

The amendment was disagreed to.

On motion of Mr. A. E. AMES, the Committee here rose, reported back the Article with amendments, and recommended the concurrence of the Convention therein.

The first amendment thereto was the following:

To insert after the word "inhabitants" in the fourth line of 2nd Section, the following:

"PROVIDED, That every county having 1000 inhabitants, shall be entitled to one Representative."

Mr. BROWN. I hope that amendment will not prevail. In my opinion, a more pernicious feature could not be adopted into the Constitution. It is anti-Democratic in every respect. Its effect, if adopted, will be to give one section of the Territory privileges which are denied to another. I believe its adoption would have a very injurious effect in the vote the Constitution will receive at the hands of the people.

Mr. BAKER. I do hope the gentleman from Sibley will not insist on his opposition to this amendment, and if fair play is a jewel, he will not. Nothing can be more certain than if eight or ten counties are represented by one man, they cannot be well represented. Now, sir, if a county becomes densely settled, it is all the more fortunate for the county; but their interests can be very well represented by one man, and the wants of the frontier counties demand that each county shall be represented by one man coming from that county.

Mr. HOLCOMBE. I should regret exceedingly to be the means of engrafting upon this Constitution a provision which should insure its defeat, as the gentleman from Sibley (Mr. BROWN) has intimated. I did what I did in perfect good faith. It is my coolest judgment that our frontier counties should be represented in the Legislature as early as possible. I may not have presented the right number to entitle a county to send a Representative, for I confess I had not matured that subject well in my own mind.

Now, sir, if I understand the basis of apportionment which the Committee have reported, it is one representative for 2000 inhabitants, and one Senator for 5000 inhabitants. Then, a district containing 10,000 population would be entitled to five Representatives and two Senators, making seven members of the Legislature in all, making an average representation in both Houses of one member for 1428 4-7 inhabitants.

Now, sir, the difference between the ratio of one member to

every 1000 inhabitants, and the ratio of representation for both Houses provided for in the report, is very small. I should be willing that the counties having less than 2000 inhabitants which are represented in the House should not be represented in the Senate, if that would be a check which would satisfy the gentleman. But, sir, I do hold that it is a matter of great importance that our frontier counties should be represented as early as possible in the Legislature. I hold that it is our duty to encourage settlement in those counties by every legitimate means in our power. If this amendment is voted down, therefore, I shall offer another, fixing a different number of inhabitants to entitle a county to send one representative. Gentlemen know to what inconveniences the inhabitants of the sparsely settled counties have to submit. I can remember when men had to travel fifty or sixty miles to take the oath of office, because there was no officer qualified to administer oaths nearer. But, sir, our Territory is progressing rapidly—so rapidly that we can hardly keep pace with it. The more I learn of the wants and necessities of our people, the more I am satisfied that it is a matter of very great importance that every county should have a Representative in the halls of legislation at the earliest possible period.

Mr. CURTIS. Before the vote is taken, I desire to give a reason for the vote I shall give, which will be against the amendment offered by my colleague. It is not that I am indifferent to the wants of the frontier counties; it is not that I do not desire that the shield of law should be extended over them; but it is because there is a higher and more sacred principle at the bottom of representation than mere county lines.

Sir, if the principle which my colleague seeks to initiate, were to prevail, the large county of Itasca in the north ought to be represented by at least twenty-five members in the Legislature, for it covers a very large extent of country, which, in consequence of its sparseness of population, is left almost defenceless, and without the conveniences of government which we, who live in the more thickly settled portions of the Territory, enjoy. Sir, any such basis for representation is wrong. The only true principle on the subject—the only true criterion which you can adopt, is that of population. It is not true that the wants of a people grow less as the population increases. They increase. There is a greater necessity for a good representation in a thickly settled country than in a thinly settled one.

My colleague spoke of the difficulty which was once experienced in taking the oath of office. I apprehend that difficulty has al-

ready been removed. There are officers appointed to administer oaths in every county.

But, I repeat, that any other principle than that upon which this report is founded, as a basis of representation is radically wrong. It is not, as I said, true that the wants of a people diminish as the population increases. There is not a county in the Territory which requires more attention in proportion to its representation in the Legislature, than the county of Ramsey, notwithstanding the fact that it is densely populated. The necessities of a county containing 2000 population are, in my opinion, as great in proportion to the number of inhabitants as those of a county containing 1000. For these reasons, I shall record my vote against the amendment of my colleague.

Mr. TUTTLE. It appears to me, from the course this question is taking, if this amendment is adopted it will open a very wide door for smuggling in new counties. I would inquire of the gentleman who offered the amendment, what will prevent new counties from being organized wherever they can be carved out to contain a thousand inhabitants?

Mr. HOLCOMBE. The Legislature will take care of that.

Mr. TUTTLE. Will it not require a new census to be taken every year?

Mr. HOLCOMBE. It may be so.

Mr. TUTTLE. For one, I am in favor of making no discrimination. I can see that there will be a fair, just and equitable representation, if it is based upon the population only; but such will not follow if all are to adopt county lines.

Mr. SETZER demanded the yeas and nays, which were ordered.

The question was taken, and it was decided in the negative, yeas 16, nays 28, as follows:

YEAS—Messrs. Baker, Baasen, Cantell, Faber, Gilman, Holcombe, Jerome, Kingsbury, McFetridge, McMahan, Rolette, Stacy, Streeter, Tenvoorde, Vasseur, Wilson—16.

NAYS—Messrs. M. E. Ames, A. E. Ames, Butler, Becker, Burns, Bailly, Burwell, Brown, Curtis, Chase, Day, Gilbert, Kennedy, Keegan, Leonard, Lashelle, Murray, McGrorty, Norris, Nash, Prince, Setzer, Sanderson, Swan, Taylor, Tuttle, Warner and Mr. President—28.

So the amendment was not concurred in.

The second, third, fourth fifth and sixth amendments of the Committee of the Whole were then read and concurred in.

The PRESIDENT then stated the question to be upon the amendment first adopted in Committee of the Whole to Section 1.

Mr. M. E. AMES raised the question of order that the amendment having been subsequently superceded in Committee of the Whole, was not properly before the Convention.

The PRESIDENT decided that the Convention having ordered the Journal of the Committee of the Whole to be kept, it must act upon the amendments adopted in their order. The Convention could not officially know that the amendment had subsequently been superceded in Committee until it reached that point in the Journal.

Mr. SETZER appealed from the decision of the Chair.

After debate, the question was taken on the appeal, and the decision of the Chair sustained.

The amendment was non-concurred in.

The question was then stated upon the substitute reported for Section 1.

Mr. BROWN. I most sincerely hope that substitute will not be adopted. Its effect will be simply to allow each Legislature at the commencement of its session to prescribe what shall be its own pay. Then it may go to work and sit as long or as short as it pleases.

Mr. M. E. AMES. I hope the amendment or substitute will not prevail. My objections are based principally upon this one point: that it leaves the Legislature at liberty at each successive session to fix its own salary, and not only to fix its own compensation, but to fix it in gross. I believe it is wrong in principle, and not sustained by a single precedent. I do not believe there is a single State in this confederacy in which the Legislature is allowed by the Organic Law of the State, to fix its own compensation by annual salary. It opens the door for abuses. Perhaps it is not fair to presume that any Legislature that will be elected in Minnesota would fix an exorbitant amount for their services, but it would be placing a temptation before them to do so.

Now, sir, I do not think that any body of men sitting as a Legislative Assembly should receive a large compensation for their services as such. I believe that most of the men who will be elected, will be ready to serve in the capacity of Legislators, from pride, from a desire to serve the State, from motives of patriotism, if you choose to call it such; and hence, they will be satisfied that their compensation should be regulated beforehand, and fixed at a very moderate sum. It is true that the Congress of the United States has adopted the principle which it is proposed to engraft upon our Constitution; but, sir, the position of that body is different, and forms no precedent for us. I do not believe that any Legislature, with proper feelings of delicacy, would desire to fix their own pay. And as I said, I do not think there is a single precedent to be found in any State in the United States of America, for such a provision.

Mr. GILMAN. I think Pennsylvania has such a rule at this time.

Mr. M. E. AMES. If there is such an instance, it is a solitary exception to the general rule of thirty-one or thirty-two States. I think it is a subject which should be regulated by the Constitution. I think we should say in direct terms that the compensation of members of the Legislature should not exceed a certain amount. I believe any man qualified to be a member of the Legislature, would prefer that his compensation should be fixed by the Constitution. But, sir, I believe the whole system is radically wrong, and for that reason I hope the amendment will not be concurred in.

Mr. BECKER. I am decidedly in favor of the substitute, and I hope it will be adopted.

Mr. BAKER. I am heartily in favor of the substitute offered in Committee of the Whole by the gentleman from Benton County, (Mr. GILMAN.) I think its adoption will have a wholesome effect upon the Legislatures of the State. It is a thing which will regulate itself. From the experience we have had, if ever a Legislature fixes an exorbitant compensation for its own members, it will be a Republican Legislature, and when the fact comes before the people, they will regulate it by sending back a Democratic Legislature. I do not care how small a compensation is fixed, but it is a subject that the people will regulate themselves, and I want no limitation in the Constitution.

Mr. GILMAN called for the yeas and nays.

The yeas and nays were ordered.

The question was taken, and it was decided in the negative; yeas 20, nays 22, as follows:

YEAS—Messrs. A. E. Ames, Butler, Becker, Baker, Burns, Cantell, Faber, Gilman, Jerome, Keegan, Lashelle, Murray, McFetridge, Norris, Rolette, Streeter, Taylor, Tuttle, Vasseur and Wilson—20.

NAYS—Messrs. M. E. Ames, Burwell, Bailly, Brown, Baasen, Curtis, Chase, Gilbert, Holcombe, Kingsbury, Leonard, McGrorty, McMahon, Nash, Prince, Setzer, Sanderson, Stacy, Swan, Tenvoorde, Warner and Mr. President—22.

So the substitute was not adopted.

The Article as amended was then adopted.

REPORT OF COMMITTEE.

Mr. A. E. AMES, from the Committee on School Funds, Education and Science, made a report, which was laid on the table.

COMMITTEE ON ENROLLMENT.

Mr. A. E AMES, on leave, introduced the following resolution:

RESOLVED, That a Committee of three be appointed on Enrollment, and that the Secretary of this Convention, is hereby authorized to employ an Engrossing and Enrolling Clerk, and to agree with such Clerk as to the compensation, and report the same to the Convention.

Which resolution was adopted.

On motion of Mr. BAKER, the Convention then at five o'clock, adjourned.

TWENTY-FIRST DAY.

THURSDAY, August 6, 1857.

The Convention met at 9 o'clock, A. M.

On motion of Mr. A. E. AMES, the reading of the Journal was dispensed with.

On motion of Mr. KENNEDY, Mr. DAVIS was excused from attendance on account of sickness in his family.

On motion of Mr. SETZER, a call of the Convention was ordered.

On motion of Mr. KINGSBURY, further proceedings under the call were dispensed with.

The Journal of yesterday was then read and approved.

The Chair announced the following as a Committee on Enrollment:

Messrs. A. E. AMES, SWAN and BUTLER.

Mr. BECKER offered the following resolution, which was considered and agreed to:

RESOLVED, That one hundred copies of each of the reports of Standing Committees be printed in Bill form, for the use of this Convention.

BILL OF RIGHTS.

On motion of Mr. SETZER, the Convention resolved itself into Committee of the Whole on the Preamble and Bill of Rights, Mr. HOLCOMBE in the Chair, the question pending being the substitute fixing the Boundaries of the State for the Preamble, offered on a former day.

Mr. BROWN proposed to withdraw the substitute.

Mr. SETZER. I object, and I will briefly state the reasons for my objections. It has been stated on the floor of this Convention, that the Preamble to the Constitution had no binding effect. Now, sir, in my opinion, the Preamble of a Constitution or law sets forth certain propositions which, as axioms, are admitted to be true and

unalterable. The Preamble, therefore, is as much binding in its effect as any other portion of the Constitution.

It is a matter of no great importance to me, whether the Boundaries are set forth in the Preamble or in the body of the Constitution. If it is more parliamentary to insert it in the body of the instrument, why let it go there. I, myself, think, the Preamble by far the most preferable place. I am also in favor of acknowledging, in the Preamble, allegiance to the Constitution of the United States. This may seem a very simple and unnecessary proposition, but when you take into consideration that a very large number of the Free States have been acting in open violation of that instrument—when you take into consideration the number of rampant nullifiers and disunionists which are abroad, such a declaration will certainly be not improper or unnecessary.

Mr. SIBLEY. I am opposed to this Preamble; not that I am opposed to any provisions which it contains, if inserted in the proper place, but I do not think the Preamble is the proper place to insert any such important Constitutional provision. Now, sir, the gentleman who has just spoken, acknowledges that there is no necessity of providing for the Boundaries of the State here, if provision is made for them in the body of the Constitution. Then I hope he will not object to the withdrawal of the substitute, especially as the subject has been referred to another of the Standing Committees of the Convention. I think it is due, as a matter of courtesy to that Committee, that we should consider their report.

Mr. BROWN, (no objection being made,) withdrew his substitute.

The Preamble, as reported by the Committee, was then read as follows:

PREAMBLE.

We, the people of Minnesota, in order to form a State Government, and to secure and perpetuate the blessings of Liberty, do ordain and establish this Constitution.

Mr. BROWN. I move to amend the Preamble by inserting after the word, "Minnesota," the words, "having the rights of admission into the Federal Union, in accordance with the Constitution of the United States."

Mr. WARNER. I am entirely opposed to that amendment. I do not think it would look well ten or fifteen years hence. I think it is entirely superfluous, and that it will look much better to remain as reported. If we are to be admitted into the Union at all, it

must be a foregone conclusion, without the necessity of expressing it, that we shall be admitted in accordance with the Constitution of the United States. We could not be otherwise admitted.

Mr. CURTIS. I am opposed to the amendment in the shape in which it now stands. I have no objection to the announcement that we come in under the Constitution of the United States, but the expression, "having the right of admission," I do not think is necessary. I do not concur with my colleague, (Mr. SETZER,) that the office of a Preamble is to announce axioms. I think it is what it purports to be—something which goes before—as applied to this Constitution, it is something which precedes the action of this Convention, the object of which is to announce the subject of of our action. I move to amend the amendment so as to make it read, "for the purpose of admission into the Federal Union, under "the Constitution of the United States."

Mr. BROWN. Why not say, "having the right of admission."

Mr. CURTIS. I have no objection to the assertion except that I think it is useless. I do not deny that we have the right to come into the Union, but I do deny that this is the proper place to assert that right. We might just as well go on and enumerate in the Preamble, all the rights which are asserted in the Bill of Rights. All we want of the Preamble is merely to make it a caption for the Constitution.

Mr. MEEKER. I think with the gentleman who has just spoken, that the object of a Preamble is simply to announce the subject of what is to follow. Whether you go beyond that and announce a part of what might be placed in the body of the instrument, is a matter of taste. Hence in the Preambles to the Constitutions of several of the States, you find the Boundaries of those States defined. But so far as the amendment now under consideration, offered by the gentleman from Sibley, is concerned, the only object I can see that can be attained by it, is the assertion of our right to be in the Union under the Enabling Act. I am in favor of holding Congress to its contract, and, if need be, to assert that contract here in the Preamble. If that is the object of the amendment, then I am in favor of it.

Mr. BROWN. In moving this amendment I had two objects in view, one was the recognition, here in the Preamble of our Constitution, of the Constitution of the United States; and the other was not to infringe upon the powers and duties of any of the standing Committees of the Convention. The committee on the Name and Boundaries of the State, have recognized the Enabling Act in their report, but I am not aware that any of the Committees have recog-

nized the Constitution of the United States. The amendment I have offered, merely asserts that we have the right of admission into the Union under the Constitution of the United States, of course recognizing our allegiance to that instrument, whenever we are admitted into the Union as a State. I claim that we have the right of admission into the Union because the Constitution of the United States reognizes the right to admit new States into the Union, and our Organic Act gives to us all the rights and privileges guaranteed to the original Territories formed out of the Territory ceded by Virginia prior to the Ordinance of 1787, in which it is provided that when a certain district of country shall contain a certain population, it shall be entitled to come into the Union as a free and independent State. Now, sir, I claim that there is nothing in that amendment which in any way conflicts with the rights of any other Committee, and that it does contain a proposition which it is proper to state in this Constitution. I am strongly in favor of thus publicly acknowledging our fealty to the Constitution of the United States.

The amendment to the amendment was agreed to.

Mr. EMMETT. I agree with the phraseology of this Preamble, and I think we should put as little into the Preamble as possible. There is no use in reciting in a Preamble all the abstract rights which we claim. I think, however, it is important that we should recite enough to inform the Congress of the United States that we have complied with the Enabling Act. It is, in my opinion, necessary to assert that we who form this Constitution, are the people within the boundaries prescribed within the Enabling Act, and that is all that it is necessary to insert. I move therefore, to amend the amendment by inserting after the word "Minnesota," in the first line, the following: "within the boundaries prescribed by the act "of Congress, entitled 'an Act to authorize the people of the Terri- "tory of Minnesota to form a Constitution and State Government "preparatory to their admission into the Union on an equal footing "with the original States.'"

Mr. BROWN. I would state to the gentleman that the report of the Committee on Boundaries, recognizes the Enabling Act and quotes the boundaries at length.

Mr. SETZER. I hope the amendment will prevail. If gentlemen will cast their eyes over the Bill of Rights which follows, they will find the identical clause under which the Free Soil Judges in Wisconsin decided the Fugitive Slave Law to be unconstitutional. Now, if we acknowledge the Constitution of the United States and intend to be governed by it, in view of these facts, it is im-

portant that we should assert it in this instrument, and there is no place more proper than in the Preamble. It was under a clause which follows in the Bill of Rights, that it was decided in Wiscon sin that fugitive slaves must have a trial by jury, thus, as far as they were concerned, annulling both the Fugitive Slave Law and the Constitution of the United States. It is to guard against such proceedings in Minnesota that I wish to announce in advance, in the Preamble which precedes the Constitution, that we intend to act under the Constitution of the United States.

Mr. CURTIS. I am opposed both to the amendment to the amendment and to the amendment itself. I am not afraid to come out here and show my hand. I do not think this is the place for sach a statement, nor that such a statement is necessary or proper any where. Sir, what will be the effect of recognizing the Constitution of the United States in this Preamble or in the Constitution at all? That instrument will protect itself. It does not need any recognition or endorsement by this Convention. We are bound by the Constitution of the United States and we cannot escape from it if we wished.

Again, Congress passed an Act enabling this Territory to come into the Union as a State upon our complying with certain conditions. Now, it is gravely proposed in a preface to the Constitution which we are to frame, to solemnly endorse the Constitution of the United States, and then to accept the Enabling Act. Why, sir, if any such endorsement were necessary on our part, it should be placed in the body of the instrument and not in the preface. If our endorsement is necessary, we should place it in an Article by itself. It should stand Section one of Article one. But, sir, no such endorsement can have the slightest effect one way or the other, wherever it is placed, and it strikes me, is in bad taste to insert it.

Mr. GILMAN. I oppose the amendment to the amendment upon the ground that it accepts the Enabling Act, every portion of it, or it means nothing, and would render any report of any Committee on that subject unnecessary and useless.

Mr. EMMETT. That is not the object of the amendment, nor do I think it goes to that extent. The object of the amendment is simply this: Congress has authorized the people within certain boundaries to form a Constitution. Now, what I wish to do, is that it shall appear upon the face of the instrument that we are the people authorized by Congress to frame a Constitution., otherwise, they may if they choose, consider and treat it as a bogus Constitution. How do they know that we are the people within the boun-

daries mentioned in the Enabling Act. The Preamble as it stands, gives no such information. It says, "we, the people of Minnesota." Who are the people of Minnesota? Congress has not authorized the people of the whole Territory of Minnesota to form a Constitution. I think it is necessary that we should state this much in the Preamble. We may then go on afterwards, if we choose, and suggest different boundaries for the consideration of Congress. The amendment does not go to the extent which the gentleman supposes. I do not pretend to accept the boundaries here in the Preamble, but merely to indicate to Congress what people we are who have taken upon ourselves to form this Constitution. Now the report of the Committee on Boundaries does not say who are the men assembled here, and how is Congress to know? I think it is important that we should assert this much in the Preamble.

The amendment to the amendment was not agreed to.

Mr. GORMAN. Section three of the Bill of Rights reads,

3d. Neither Slavery, nor involuntary servitude, unless for the punishment of crimes, shall ever exist or be tolerated in this State.

Now, sir, I would prefer that this section should be made to conform in phraseology precisely with the clause in the Ordinance of 1787. That clause is the point upon which the whole question of Slavery has clung. It is in the Constitution. It was adopted into the Wilmot Proviso, and has been used so extensively the public mind is prepared for just that phraseology. It is true, the language used excludes Slavery as effectually as any language could do it, but I would prefer that the language of the Ordinance of 1787 should be used, and I move, therefore, to strike out the paragraph and insert the following:

There shall be neither Slavery nor involuntary servitude in the State, otherwise than in the punishment of crime, whereof the party shall have been duly convicted.

The amendment was adopted.

Mr. FLANDRAU moved to amend the following section:

7th. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial by an impartial Jury of the County or District wherein the crime shall have been committed, which County or District shall have been previously ascertained by law; the right to be heard and defended in person or with a counsel; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him, and to have compulsory process awarded.

By adding thereto the words "for obtaining witnesses in his favor, and to have the assistance of counsel for his defense."

The amendment was adopted.

Mr. EMMETT. I move to amend by striking out of the section all after the word "favor."

I think as the section now reads it would be construed to give the prisoner, under any circumstances, the right to have counsel at the expense of the State. The practice has been, and I do not think we can change it for the better, to allow the prisoner to be heard by himself or counsel, and when the prisoner is unable to procure counsel, to have one assigned him at the expense of the State. As it now stands, I think it would, in every instance, require the State to incur all the expenses both of the prosecution and defense.

Mr. NORRIS. I raise the question of order, that it is proposed to strike out the amendment which has already been inserted. The amendment is therefore not in order.

The CHAIRMAN. The amendment proposes to strike out the amendment which has been added to the section, with a part of the section itself, and is therefore in order.

The motion to strike out was not agreed to.

Mr. EMMETT. I ask whether the ninth section, which says: "No law shall be passed abridging the right of the people peaceably to assemble to consult for the common good, to instruct "their representatives, and to petition the Government or any department thereof," requires the Representative to obey the instructions of his constituents.

The CHAIRMAN. In the opinion of the Chair, it forbids the passage of any law interfering with the right.

Mr. SETZER. I move to strike out all after the word "press" in the following section:

10th. Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right, and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libel, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous be true and was published with good motives and for justifiable ends, the party shall be acquitted, and the jury shall have the right to determine the law and the fact.

Mr. MURRAY. The object of the Committee in reporting the clause which the gentleman proposes to strike out was, to repudiate the common-law maxim: "the greater the truth the greater "the libel."

Mr. SETZER. The prior clause of the section makes every person responsible for the abuse of the right to speak and write freely. That is all which is necessary to insert into the Constitution. What follows is mere legislation.

Mr. FLANDRAU. The words proposed to be stricken out have become a settled provision of Constitutional law in all the States

which have recently formed Constitutions. The necessity for it lies in the fact that under the old common-law practice evidence of the truth of the matter charged as libelous could not be given by the party accused. Now, it became evident that in a great many instances where publications were made by editors and others of matter which in law might be considered libelous, the facts stated were such as the public ought to know, and were published only for the public good. It has therefore been provided, that where a person is prosecuted criminally for the publication of libelous matter, he may bring evidence to prove the truth of the matter published, and if he can prove that it was true and published for justifiable ends and for good motives he shall be acquitted. It is subservient of a great public good: for it often happens that public ends are served by the publication of such matter.

Mr. SETZER. The object of the common-law maxim to which the gentleman has referred was, to prevent persons from entering the sanctity of home and of private life and holding facts up to public gaze. The object is a commendable one, and ought to be sustained; but, sir, under this provision any evil-disposed person may hold up to the public gaze facts connected with the sanctity of home which may do great injury to the person to whom they may refer, and when he is called to account for it, if he chooses to say that the facts were true and were published with good motives and for justifiable ends, he must be acquitted.

Mr. BECKER. It strikes me that the decisions of the Courts of England are much older than this clause. They have construed the common-law precisely as this Section construes it. I see nothing wrong in the provision.

Mr. EMMETT. I hope the amendment will prevail, for the reason that the clause which is proposed to be stricken out is legislating in the Constitution. It is a provision which it would be very well for the Legislature to enact as a law; but if we are to commence this kind of legislation, we might as well go on and perfect a code of laws in the Constitution. I hope the clause will be stricken out.

Mr. BAKER. It does no more than say what the Courts shall decide.

Mr. EMMETT. It goes further: it even says what the juries shall decide.

Mr. SIBLEY. I hope the amendment will not prevail. I see nothing in the way of legislation in this clause at all. It is merely the enunciation of a great principle which, in my opinion, ought to be provided for in the Constitution. It is an assertion of the prin-

ciple that when a man publishes for justifiable ends a truth which the public good requires, he shall not be considered as having committed a crime. It is a principle which is asserted in all the modern Constitutions, and it seems to me we should be taking five or six steps backwards if we were to omit it.

Mr. CURTIS. I do not think the opinion the gentleman has expressed is a correct one, that if the clause is one that can as well be provided by the Legislature, then it is not a proper one to be inserted into the Constitution. If the principle be correct that persons shall be justified in the publication of matter which might be considered libelous, when they published the truth with good motives and for justifiable ends, I say it is a proper principle to be inserted in the Constitution, whether the gentleman calls it legislation or not. I apprehend that in such an instance as the gentleman from Washington mentions, the accused party would have some difficulty in convincing a jury that the publication was for justifiable ends. If it were, then I say he should be acquitted.

The motion to strike out, was not agreed to.

Mr. FLANDRAU. I move to strike out the word "criminal," in the first clause of the Section, which reads: "In all criminal prosecutions," &c. Now sir, under this Section as it stands, a man may be prosecuted for libel, and may give the truth in evidence, and if his motives were good he may be acquitted, but he is to have no such rights when the action is a civil one, for damages. The idea is monstrous.

Mr. MEEKER. I apprehend the gentleman is getting things somewhat mixed up. This provision in Section 10, has no reference whatever to a civil prosecution, and was never so intended. It does not in any way whatever, affect the rights of parties suing for slander. It has never been construed to have any such bearing. The necessity for the provision arises out of circumstances, like these: Under the old Common Law of England, which is adopted for practice in the Courts of most of the old States, a person indicted for libel by a grand jury, was subject to fine and imprisonment, and what was called the Common Law Right of the Crown, had been so much abused by refusing to the accused the right of bringing in the truth in evidence, that it has been found necessary to adopt a provision allowing the accused to give the truth in evidence and to establish the facts that his motives were good, and the publication made for justifiable ends. Under the old Common Law practice, if conviction followed the indictment, the party was liable to be punished by fine and imprisonment. It

could therefore have no possible reference to suits for slander under the civil law.

Mr. EMMETT. Mr. CHAIRMAN, the very fact of this discussion by the gentleman from Nicollet, (Mr. FLANDRAU,) and others, ought to admonish us that this part of the Section ought to be stricken out. The very fact of the difference which has arisen in this Convention as to what will be the effect of this legislation, ought to teach us that such legislation has no place in this Constitution. Leave the whole matter to the Legislature, and no need of further discussion is necessary. But insert the provision here, and then the question arises as to whether it includes civil jurisdiction as well as criminal. A typographical error has been corrected, which materially changes the sense of the Section, since the question was taken on striking out, and I presume the motion is again in order. I move to strike out this clause of the Section.

Mr. MEEKER. It is not in order.

Mr. EMMETT. Is that decisive? [Laughter.]

Mr. MURRAY. The Section has not changed by any action of the Convention, since the vote was taken upon striking out. The correction of a typographical error would not make the same motion again in order.

Mr. EMMETT. Then I move to strike out all after the word, "press."

Mr. FLANDRAU. There seems to be some misapprehension as to the character of this provision which it is proposed to strike out. I have announced on more than one occasion that I am opposed to putting anything like legislation into the Constitution. The gentleman from Ramsey, (Mr. EMMETT,) insists that this clause had better be left to the Legislature. Now, sir, it may be true that if this clause were stricken out, the Legislature would have the power to enunciate the principle; but sir, it is not legislation; it is a great principle, involving important rights of the citizen, and its proper place is in the Constitution. We ought to declare here in the fundamental law of the State, that in all prosecutions for libel, whether criminal or civil, where the libel has been promulgated with good motives and for justifiable ends, the truth should be allowed to be given in evidence. That is the principle, and no Legislature should be allowed to change it.

Mr. SETZER. Will the gentleman state what are justifiable ends? It seems to me the expression is entirely too ambiguous?

Mr. FLANDRAU. I will state an instance. Suppose it should be discovered that a man had committed forgery, and the man was about to leave the country, but the plot has not been fully discov-

ered or made public. By publishing the fact in the newspapers, the person is detected and brought to punishment. Now, sir, to charge upon a man forgery, murder or any other criminal offense is undoubtedly a libel upon his character. It may have been published through malice. If it has, the party injured would have it in his power to collect damages for defamation of his character. But suppose the party publishing the libel proves that the forgery has actually been committed and that his motives in publishing it were to detect and bring to justice the offender, should he not be allowed to bring the truth in evidence?

But, suppose the Legislature should pass a law carrying out the old common law maxim, "the greater the truth the greater the libel," although the person publishing the libel may have it in his power to prove that the facts published were true, and that they were only published for the purpose of bringing the offender to justice, the plea would avail him nothing; all the person charged with the crime would have to do, would be to prove that the publication had been made, and he would be convicted forthwith. Such a law would become simply an instrument of oppression. The principle ought to be clearly and unequivocally asserted in the Constitution, which shall prevent the Legislature from passing any such law, or the Courts from establishing any such rule. That is why I want this clause to be embraced in our fundamental law, and I want further, that the principle shall not be confined to criminal prosecutions. The very discrimination in favor of criminal prosecutions may, by implication, prevent the Legislature from passing any law to include civil prosecutions. Now, sir, If I publish the fact that a person has been guilty of a crime, that publication is a libel upon his character. If I publish it in a newspaper or write it and post it in a handbill, it is a libel. If I speak it only, it is slander. The publication is a libel which is indictable. You can make a complaint to the Grand Jury, they can indict me for the crime, and I can be punished as a criminal. But the matter does not stop here. I may be indicted and punished criminally, and then the party may bring a civil action against me and claim damages for defamation of character. But, sir, under this clause, if I establish the truth of the charge and the fact that my motives were good, I may be acquitted on the criminal prosecution, but I may be prosecuted by civil action, and if I am not allowed to bring the truth in evidence again, what is to prevent me from being mulcted in damages? There is nothing to prevent it. The very assertion that the truth may be brought in evidence in a criminal prosecution, implies that the same rule shall not pre-

vail in a civil prosecution. I insist that both should be placed upon the same footing. I hope, therefore, the section will be allowed to stand as it is, with the exception of striking out the word "criminal."

Mr. WARNER. I would enquire of the gentleman from Nicollet, whether he would have the Jury determine the law as well as the fact in civil actions?

Mr. FLANDRAU. In cases of libel I most certainly would.

The motion to strike out was not agreed to.

The question then recurred upon Mr. FLANDRAU's amendment to strike out the word "criminal."

Mr. BECKER. I am opposed to the amendment. I do not wish to take up the time of the Convention, but it seems to me the gentleman is all wrong in his idea in reference to the proposed amendments. Suppose the party is indicted criminally for libel, he must plead guilty or not guilty. That is the only plea he can make. But in a civil prosecution the party prosecuted may put in any plea he chooses. He has the right to set up in defense, that the matter charged as libelous is true, and was published with good motives and for justifiable ends. There is nothing to prevent him as the matter now stands. It is only with reference to criminal prosecutions that any such provision is necessary to be incorporated into the Constitution.

Mr. CURTIS. If it is law already, then it will do no harm to insert it in the Constitution. It is a great principle which should be always maintained, and it seems to me it would be well to insert it here in our fundamental law, to stand for ourselves and our posterity.

Mr. FLANDRAU. The gentleman from Ramsey (Mr. BECKER,) is mistaken in this. The clause does not treat of pleas at all. It does not say what the party may plead or what he may not plead. It treats of what he may prove. If he is prosecuted criminally, he may plead guilty or not guilty. If not guilty, then under this clause in the Constitution he will have the right to prove under his plea that the libelous matter was true, and was published with good motives and for justifiable ends; and if he succeeds, he may be acquitted.

Mr. BECKER. That is all very true, but in civil prosecutions, he already has that right, because he may set up that plea in his defence, without any special constitutional provision giving it to him.

Mr. CURTIS. He could not set up that plea, if the inference is drawn from this Constitution that in civil prosecutions for libel, the

truth may not be given in evidence. The Constitution would be construed as preventing him from setting up the plea.

The amendment was disagreed to.

Mr. EMMETT moved to amend Section ten, by striking out all after the word "press" and inserting the following:

But the Section shall not be construed to authorize the publisher or publishers of any newspaper or periodical to print or publish the testimony of any witness or witnesses given during the progress of any criminal trial or examination, until after the defendant therein shall have been convicted or acquitted.

Mr. BECKER. Have not the Courts already that power in criminal prosecutions?

Mr. EMMETT. Not necessarily. The power is claimed by the Courts, but it has been disputed by the publishers of newspapers. And especially in New-York, and other large cities, the practice has grown up of publishing the evidence in criminal trials the next morning after it has been given, with such comments upon it as the editor may see fit to make, which goes into the hands of the jurors and of the public while still pending. The consequence is, that in all important cases the public have made up their minds long before the verdict of the jury has been given. I think such publication should be prohibited.

Mr. BECKER. Have the Courts not frequently expelled reporters, and even punished them for publishing evidence in such cases?

Mr. EMMETT. It has been sometimes done, but the evil still exists, and the remedy ought to be provided.

The amendment was not agreed to.

Mr. MURRAY moved that the Committee rise, report progress, and ask leave to sit again.

The motion was disagreed to.

Mr. FLANDRAU. The section now reads: "In all criminal "prosecutions or indictments for libel"—. Now if the prosecution is criminal, it must be by indictment. One word or the other is meaningless. I move to strike out the words "or indictments."

The amendment was not agreed to.

Mr. SWAN moved to amend the following section, by inserting after the word "State" the words: "or who shall have declared "their intentions to become citizens of the United States":

12th. Foreigners who are or who may hereafter become *bona fide* residents of this State shall enjoy the same rights in respect to the possession, enjoyment and inheritance of property, as native-born citizens.

Mr. BAKER. If it is in order, I desire to inquire what are privileges which it is proposed in this Section to bestow?

The CHAIRMAN. The Chair will refer the gentleman to the Bar.

Mr. BAKER. Yes, sir; I shall resort there very soon. [Great Laughter.]

Mr. GORMAN. I think the amendment should be adopted. There is a large body of men in the religious world who refuse to take the oath of allegiance. Now, I want foreigners to declare their intention to become citizens of the United States, because I want them to become citizens. I want foreigners who come under our guardianship and enjoy the benefit of our laws, to become citizens, and to interest themselves in our institutions.

Mr. BAKER. I do not wish to detain the Convention, but I see no reason for making any distinction between the different classes of white men. As I said yesterday, I yield to whatever decision this Convention may come to. They must declare who are to be the voters; but I want no distinction made between foreigners and natives. And, so far as this Section is concerned, if the Prince of Wales chooses to come here and buy a town-lot, I want to know what is to prevent him?

Mr. MURRAY. I hope the amendment will not prevail. It looks upon its face very illiberal to the foreigner, to require him to take the oath of allegiance before you allow him to hold property. This matter underwent considerable scrutiny in committee, and they have reported the same provisions which are contained in the Constitutions of Iowa, Wisconsin and several of the other States. I know it does not look well for a foreigner who may choose to come amongst us, to acquire property to the amount of one hundred thousand dollars, who will not take interest enough in our institutions to become a citizen of the United States; but it would look like injustice to deprive any person who is a *bona fide* resident, of the power to acquire property, and I think the section is better as it is.

Mr. GORMAN. The amendment requires no more than the laws of the United States require from those who purchase lands of the Government. No person is allowed to purchase land from the Government who has not declared his intention to become a citizen of the United States; and it is proposed only to apply the same rule under our Constitution.

Mr. EMMETT. That requirement is made by the United States Laws for pre-emptors, but not otherwise. Any person can purchase land subject to private entry, of the Government.

Mr. GORMAN. Foreigners are not allowed to pre-empt land of the Government until they have taken the oath of allegiance. It

is the policy of the Government, and it is a policy which our foreign born citizens with one voice demand, that persons emigrating here from foreign countries shall be required to take the oath of allegiance before they are permitted to enjoy the same rights and privileges with native-born citizens. They require it in respect to voting, holding office, and everything.

Mr. McGRORTY. If it is in order, I wish to offer a substitute for the whole section. I am opposed *in toto* to allowing foreigners who have not taken the oath of allegiance, the same rights respecting the possession and inheritance of property which citizens enjoy, and so I believe are all my countrymen in Minnesota.

Mr. GORMAN. I am certainly right in my position, and my colleague (Mr. MURRAY) is wrong. The position he has taken is in defiance of the unanimous wishes of the foreign-born population of the Territory, and of the wishes of the masses of the people. I do not want foreigners to come here and acquire property and enjoy the protection of our laws until they declare their intention to become of us. Our foreign-born citizens will never submit to it—the masses of the country will never submit to it. It is not consistent with equal rights. The amendment is right and should be adopted.

Mr. EMMETT. I think this amendment is just right as it come from the hands of the Committee. It seems to me that my colleague (Mr. GORMAN,) has shown a rather strange protection to foreigners in his remarks upon this subject. I will will ask him what is to become of our foreign holders of railroad stocks, if this amendment is adopted? We invite them here to take stocks in our railroads, and to furnish us money to build them and carry them on, yet the gentleman proposes by a Constitutional provision, to prohibit them from enjoyment of any benefit from them, or at least of the right to transmit such property to their heirs.

Suppose a gentleman comes over here with his family and dies. His widow pre-empts a piece of land and then dies, who does the land go to, if this amendment is to prevail? Her heirs, her father, mother, brother, sister, or children. come here to attend to the property and after enduring all the hardships and expense of the voyage, find that under your Constitutional Law, the property cannot be transmitted by inheritance.

Gentlemen have referred to a provision in the Pre-emption Law, requiring all foreigners who shall avail themselves of its benefits, first to declare their intention to become citizens. Sir, the provision is a proper one, because the government is legislating for its citizens. But not so when the Public Lands have been exposed

for public sale. Persons from Canada, and from the European States, are invited to come here and invest their money in government lands, and the faith of the government is pledged that when they shall thus become possessed of property within our domain, they shall enjoy it, and be protected in their rights equally with our own native born citizens. Now sir, one of the conditions to which we pledge ourselves when we come into the Union, is not to interfere with the primary disposal of the soil, and I very much doubt whether we have the power to say, that foreigners who have thus aquired property from the General Government shall not enjoy and transmit it, under the same restrictions and in the same manner as citizens.

Mr. SETZER. I ask the gentleman whether there is not a United States Law, which prevents foreigners from inheriting real estate property?

Mr. EMMETT. No sir, I know of no such law. I believe there is no such law, and for us to make one which shall apply to those purchasing lands of the General Government, would be an interference with the primary disposal of the soil.

Mr. BROWN. The Section as it stands, certainly does not suit me. It is bad enough that we should have citizens of our own country, allowed to come here and purchase and hold large tracts of land, to the injury of the actual settler. But it would be much worse for the residents of a foreign country, to be allowed to come here and purchase large tracts of land, to be held by them for their increase in value, caused by the labor of our own people. Large tracts of land in Wisconsin, and Iowa are now held in this way. In Wisconsin, SIR CHARLES MURRAY, one of the houshold of Queen Victoria, owns and holds several thousand acres of very valuable land in Wisconsin, which is increasing in value by the labor of those who reside in the neighborhood. Is such a state of things right? Is it right to allow citizens of a foreign country to enjoy the same rights and privileges, in respect to the possession and inheritance of property as our own citizens?

Mr. GORMAN. Do they not pay the same taxes on their property?

Mr. BROWN. Taxes do not pay for the labor spent by the residents in increasing the value of the property. It is the state of things which requires our actual settlers to labor for improvements, the value of which is shared by the non-resident property holder in the increased value of his property, of which I complain.

Mr. MURRAY. Does the gentleman pretend to say that under this Section as reported, a non-resident foreigner can send here

and purchase and hold five hundred thousand acres of land? Sir, the Section only allows that privilege to foreigners who are *bona fide* residents. And I think the gentleman must be mistaken in the case stated by him in Wisconsin, for this provision is copied *verbatim* from the Constitution of Wisconsin. I doubt very much whether SIR CHARLES MURRAY or any other non-resident foreigner, can purchase and hold five or ten thousand acres of land in Winconsin.

Mr. McGRORTY. I will state in reply to the case stated by the gentleman from Saint Paul, (Mr. EMMETT,) that the law does not require women to take any oath of allegiance. I will further state, that when a man comes here with his family and becomes naturalized, his wife and his minor children are also considered as naturalized. The case of the widow obtaining land under the pre-emption law, would therefore have no application.

Mr. BAKER. In that case the widow's husband was supposed to be dead. [Laughter.]

Mr. GILMAN. The gentleman from Sibley, (Mr. BROWN,) says, the non-resident property holder enjoys the increased value of his property, in consequence of the labor of the resident. Now, I understand that the property of the non-resident is assessed higher, and taxed higher just in proportion to the increase of the value of his property. He pays increased taxes as his property rises, just the same as the resident. But if that does not compensate for the labor of the residents, then why not tax his property higher in consequence of his being a non-resident?

Mr. BROWN. You cannot do that under the law.

Mr. GILMAN. You can tax him to the full value of his property.

Mr. BROWN. I will state to the gentleman that there is a proposition submitted by Congress to this body, that we shall not tax the property of non-residents higher than that of residents. When you put a building upon an eighty acre lot, you increase not only the value of that lot, but of the lot alongside. Now, sir, if the person owning the property alongside is a non-resident and refuses to make any improvement on his property, the mere fact that his property is taxed higher in consequence of the improvements made by his neighbors, is no compensation to them.

Mr. A. E. AMES. As has already been stated, a foreigner can not come here and enjoy the benefits of the pre-emption law without first declaring his intention to become a citizen; but such is not the fact relative to those who purchase lands of the Government which are subject to private entry. Now, sir, when the resident of a foreign country comes here and purchases land of the Government, the faith of the Government is pledged to him that he

shall hold the land and enjoy it, and have the right to dispose of it or transmit it to his heirs, to the fullest extent. If, therefore, this Convention were to make a law in contravention of that provision, I doubt whether it could ever be carried into effect. I am in favor of protecting the rights of the actual settler to the fullest possible extent, but we cannot protect them by laws or Constitutional provisions which interfere with the primary disposal of the soil upon the part of the general Government.

Mr. FLANDRAU. It seems to me that this Section involves a good many important principles. Now, sir, I would suggest whether the phraseology of the Section is not objectionable in this respect. It speaks of the property of foreigners without distinction. I think it should be confined to real estate property. There is no objection, I apprehend, to the Prince of Wales, or any other foreigner, owning cattle or horses in this country. But there is an objection to a foothold being obtained within our State by parties who owe no allegiance to our government, and who have nothing in common with us. It is the same doctrine with that which has become a part of the settled policy of the country, known as the Monroe doctrine, that foreigners as such should have no foothold in the country.

Mr. M. E. AMES. This has reference to private property only; and is hardly a parallel case with the Monroe doctrine.

Mr. FLANDRAU. The principle is precisely the same.

Mr. MEEKER. Will the gentleman allow me to correct him? He speaks of foreign proprietors. Now, sir, the Section speaks only of resident proprietors.

Mr. FLANDRAU. The principle I am speaking of is that of allowing persons residing abroad in England, Ireland, or any other foreign country, who have surplus property with which they desire to make good investments, to come here and take up our lands and establish a foreign proprietorship amongst us. It seems to me that if this is allowed to go on, we subject ourselves to all the evils of a non-resident proprietorship from which so many countries have suffered. Now, I propose to prevent any such condition of things by providing that in order to enjoy the same rights and privileges in respect to the possession and inheritance of real estate with ourselves, foreign property-holders must reside amongst us and acknowledge allegiance to our institutions by declaring their intention to become citizens.

Now, sir, there are persons abroad possessing large property, who may come here and purchase of private citizens or of the government at your land offices, immense tracts of land, and hold them

making us pay tribute to them. I do not want to see a system of tenantry established in our State upon the lands of foreign residents. Every State has the right to make her own regulations respecting the title to and inheritance of property within her own limits. I have no doubt that this is one of the reserved rights under the Constitution of the United States to the people of the States; and believing that we have the power clearly in our hands, I think we should exercise it for our own protection.

Mr. MEEKER. I do not wish to detain the Committee for a moment, but, sir, it seems to me this whole discussion has no relevancy to the question under consideration. The Section refers to foreigners who are *bona fide* residents and can by no possibility have anything to do with foreigners residing abroad. I hope the question will be taken.

Mr. BECKER. There is a great deal to be said upon this question. It is a question of much importance, and should not be disposed of hastily. In order to give gentlemen time to reflect upon it, therefore, I move that the Committee rise, report progress, and ask leave to sit again.

The motion was agreed to, and the Committee accordingly rose, reported progress, and asked leave to sit again.

Leave was granted.

On motion of Mr. BECKER, the Convention then, at a quarter past one, adjourned until half past 2 o'clock P. M.

AFTERNOON SESSION.

The Convention met at half-past 2 o'clock.

ENROLLING CLERK AND SERGEANT-AT-ARMS.

Mr. KINGSBURY made the following announcement on behalf of the Secretary:

"I am requested, in behalf of the Secretary, to inform the Convention that he has employed R. L. THOMPSON as Enrolling Clerk, at a compensation of three dollars per day, in pursuance of a Resolution yesterday adopted by this Convention."

Mr. MURRAY moved that JOHN BELL be elected Sergeant-at-Arms *vice* Mr. TESAROW.

Mr. SETZER moved that the motion be laid on the table.

Which motion was not agreed to.

On motion of Mr. KINGSBURY, Mr. BELL was elected Sergeant-at-Arms.

BOUNDARIES.

On motion of Mr. A. E. AMES, the Convention resolved itself into Committee of the Whole on the report of the Committee on the Name and Boundaries of the State, Mr. EMMETT in the Chair.

The following is the report of the Committee:

SECTION 1. This State shall be known by the name of the State of Minnesota, and shall consist of and have jurisdiction over the Territory embraced in the following boundaries, to wit: Beginning at the point in the center of the main channel of the Red River of the North, where the boundary line between the United States and the British possessions crosses the same; thence up the main channel of said River to that of the Boies des Sioux River; thence up the main channel of said river to Lake Traverse; thence up the center of said Lake to the southern extremity thereof; thence in a direct line to the head of Big Stone Lake; thence through its center to its outlet; thence by a due south line to the north line of the State of Iowa; thence east along the northern boundary of said State to the main channel of the Mississippi River; thence up the main channel of said River, and following the boundary line of the State of Wisconsin, until the same intersect the St. Louis River; thence down the said River to and through Lake Superior, on the boundary line of Wisconsin and Michigan, until it intersects the dividing line between the United States and British possessions; thence up Pigeon River, and following said dividing line to the place of beginning.

SEC. 2. The State of Minnesota shall have concurrent jurisdiction on the Mississippi, and all other rivers and waters bordering on the said State of Minnesota, so far as the same shall form a common boundary to said State, and any other State or States now or hereafter to be formed by the same; and said rivers and waters leading into the same shall be common highways, and forever free, as well to the inhabitants of said State as to other citizens of the United States, without any tax, duty, impost, or toll therefor.

Mr. FLANDRAU offered the following amendment to section one of said report, to-wit:

To strike out after the words "to-wit" and insert "beginning at the point where the 46th parallel of North latitude crosses the main channel of the Missouri River, thence down the main channel of said river to the mouth of the Big Sioux River, thence up the Big Sioux River, to North Line of the State of Iowa, thence along the North Line of Iowa to the main channel of the Mississippi River, thence up the main channel of said river, and following the Boundary Line of the State of Wisconsin until the same intersects the said 46th parallel of north latitude, thence west on said line to the place of beginning.

Mr. FLANDRAU. That, gentlemen, is an East and West line. Mr. CHAIRMAN, as gentlemen seem to doubt the power of the Convention to make a Boundary different from that laid down in the Enabling Act of Congress, I propose to say a word or two upon the subject before the question is put upon the adoption of the amendment.

Mr. BAKER. I call the gentleman to order. The gentleman says he is going to prove the power of the Convention to establish a new Boundary. Now sir, we yield him that point and I want

to know whether it is in order to speak to the point which we have given up? (Laughter.)

Mr. FLANDRAU. I ask if Mr. BAKER speaks the sentiments of the whole Convention? If they have delegated him to speak for them upon this subject, I have not seen it upon record. Now, sir, I maintain that we have the power to establish any Boundary which the Convention may see proper to designate; and that the State comprised within the limits we shall fix, if ratified by the people, will be just as good and just as much a State, as if we had followed the line designated by Congress.

Mr. CHAIRMAN, the people in the Northern section of the Territory prefer that they shall be left in a Territory by themselves, where they can enjoy some of the benefits of their Territorial condition, which have heretofore been monopolized by other sections of the Territory. They want a condition in which they can arrange their matters and not be overborne by the more populous South, which has always preponderated in the Territory and has always appropriated all the Federal donations, and all the Federal patronage.

By pursuing such a course, you will tend to open up the Northern country, and develop it to an extent it can never reach, if it remains united to the South.

By dividing the State in this way, we not only improve the condition of the Northern country, but we greatly enhance the value of the Agricultural and Commercial interests of the South. We enjoy all the advantages of the navigation of the Mississippi River on the one side, and of the Missouri on the other. We have the connection between these two rivers entirely within our own State. But divide the Territory in the other direction, and you entirely cut off all connection with the Missouri River, within the State; and it seems to me that the Southern portion of the Territory, especially that portion of it lying west of the Mississippi River, should certainly be in favor of an East and West Line, for reasons, different in their nature, but quite as strong and conclusive as those operating to make the members from the North favor such a decision.

But, sir, this is a matter which every gentleman has already weighed in his mind, and I do not propose to go into any detailed argument upon the subject. This matter has heretofore been thoroughly discussed in the Legislature, and throughout the Territory. The minds of men are made up, and I am well aware that nothing I can say would change them. I shall vote for dividing the Territory by an East and West Line.

Mr. BAKER. I am satisfied with the gentleman's positions all

except one. What does he mean when he speaks of the Federal patronage of the Territory?

Mr. FLANDRAU. Was not this Capitol, in which we are in, builtl with funds from the Federal Treasury? And have they not sustained our Territorial Legislature, our Territorial Courts, built our roads, and defrayed all the expenses of the Territorial Government? These are advantages which the North has never enjoyed, because the Federal appropriations have been expended in the South.

Mr. GORMAN. I desire that the vote shall not be taken upon this question until I can have five or ten minutes of the time of the Convention. I wish to place before my constituents, before the people of the Territory and of the country, my position upon this subject. I am sure I shall be justified in the few brief remarks I shall make, by way of explanation rather than argument, for the reason that I have been attacked in as violent a manner, perhaps more so, than any other man in the community, over this question.

A gentleman, occupying a position which he regards as one of distinction, has seen fit to invade the private sanctity of my social civilities to him, to learn from me my private sentiments, and draw from me expressions of opinion, argument and reasons, in favor of a particular line of policy respecting this division of the Territory—an East and West or North and South Line. He has sat quietly at my table, and enjoyed the hospitalities of my house night after night, for the purpose of purloining opinions from me that he might expose them to the gaping crowd.

Mr. FLANDRAU. Name him.

Mr. GORMAN. He did not name me except by a perversion of language, and I leave him to look at the picture I shall draw. I will say, however, that he does not occupy a seat in this Convention, nor in *the Constitutional* Convention of the Territory of Minnesota.

I said to him on these occasions, in private life, many things that no one but one who was willing to expose his own infamy, would have so desecrated the obligations of private confidence and of social life, as, under any circumstances, to have gone further than mention them individually, instead of exposing them to the world, and letting them go forth upon the records to the country.

Sir, I did, before the passage of the Railroad Grant, entertain opinions which I expressed private and in no other way, favorable to the division of the Territory, by an East and West line. I gave to that gentleman individually, my reasons, and they were the reasons on which he acted. He has no opinion upon the subject

that was original. These reasons as thus given, he has repeated, parrot-like, over and over a thousand times, and has retailed them for the benefit of his constituents and the public.

Sir, if I dare trespass upon the confidence of private conversations held by him with me, I could reveal things that would make his infamy itself blush; but my tongue shall cleave to the roof of my mouth, my right hand shall forget her cunning before I will so far forget the obligations I owe to honor and to the sanctity of social life, so to hold these things so obtained, up to the public gaze.

It is true, that before the passage of the Railroad Grant, I was in favor of an East and West line, but when I went to Washington and found that Grant had passed, I said at once that there was not a possibility of adopting that line, that the State of Minnesota would not for a moment suffer the sacrifice she would have to make. I said to every gentleman with whom I conversed, after my return from Washington, then we have a grant of railroad land five hundred miles in length, two thirds of which, if we have an East and West line, in the parallel of 45 degrees 10 minutes, or 45 degrees 20 minutes, or 46 degrees, we shall lose jurisdiction over; we shall lose the right to tax it, and Minnesota will give to a new Territory a grant of land worth from $30,000,000 to $50,000,000. Instead of the Government making a grant of land to Minnesota, Minnesota with this East and West line, would make an immense grant to a new Territory, over which she would have no jurisdiction and no power of taxation. Therefore, such a division of the State would involve a loss on the part of the State to which the people would never consent. That was the opinion I expressed to all with whom I conversed upon the subject. Any constitution that would establish an East and West line, thereby involving the loss $30,000,000 or $40,000,000 worth of land with all the taxation, population and commerce which it would invite, would destroy itself before the people—it must be given up.

I challenge any man, woman or child to say that I ever uttered an oppinion in favor of an East and West line, after the passage of the Railroad Grant. These are the facts, but sir, I shall never get justice from men who are determined I never shall have justice. The moment I returned from Washington, I said to my friends that my reasons for an East and West line had failed.

It was originally supposed that a grant of land would be given to a road running west from Winona by St. Peter to the Missouri, and to another road running from St. Paul, by St. Anthony, west to the Missouri, and the grant running to Pembina or the

region of the Red River of the North was not hoped for. Indeed, the grant was much better than the most sanguine dared to expect. With these expectations, supposing that nearly the whole grant, comprising these two great lines of emigrant travel to the West would be included in the State with the proposed East and West line, I was for that line. But when the grant was finally made and I found that we were to give up all this immense grant of land with all its attendant advantages of wealth, population, taxation and commerce, by the establishment of an East and West line, I at once gave it up. But, sir, I will not enlarge upon this subject. I only hope that no other person may be cursed by the intimacy of a private friend as I have been.

"Wise men change their opinions; fools never do." This is an old remark, but those who read the history of the times, and especially the only person to whom I allude, will find the application staring him in the face without the aid of a looking glass.

Now, sir, was I right in principle? Is it wrong in the public estimation, when in the progress of human events, new issues arise, and new circumstances are presented, for a person to govern his position accordingly? If it is wrong, then it is a crime for a man to be right. When the State effects was presented, I said to my constituents that it would be suicidal to further insist on an East and West line. I used the same arguments to them, while a candidate for this Convention, which I have used to-day, as my colleagues present will bear me out in saying. When my friends, one of whom is now upon this floor, called upon me to learn my views, I gave them precisely as I have given them here to-day.

Here is the history of this wonderful "mares nest" that has been found by the gentleman who has seen proper to herald it forth to the world as treason—treason to Southern Minnesota, as a betrayal of principle. It would be out of order and out of place, it would be compromising my own dignity and self respect, were I to travel out of the record now to allude to other statements that he has made, combining a semblance of truth, with such perversion of facts as to give them a coloring worse, indeed than a downright lie.

I have felt myself called upon to make these remarks because there are gentlemen in the other end of the Capitol occupying positions, by which they are able to perpetrate all the slanders which are brought against me by those who dislike me, and placing them in a form where they can do the greatest amount of injury.

I said that I would not trespass beyond the line marked out before me, and I will speak of no other matter to which he referred,

save the one now under consideration—the Boundary Line. I might however in this connection, perhaps very properly allude to the subject of my approval, as Governor of the Territory, of the Minnesota and Northwestern Rail Road Charter. It is said that I betrayed my friends, and I am held up before the country as a traitor. Sir, in reference to that bill, the Legislature had given the percentage to the State which I had asked. They had yielded one great point. I had vetoed this Railroad Bill twice. Some of those vetoes had been overruled by a two-thirds vote, as was the right of the Legislature under the Organic Act, and I did not feel like putting my will everlasting in opposition to the will of the people as expressed through their Representatives. It would be to subvert the great fundamental principle of popular government, and establish the one man power. I did not think the power ever ought to be exerted except for the best reasons and in cases imperiously demanding such interposition. In this instance, I yielded and signed the bill, and I would do the same thing again and again, if I was Governor of the Territory or future State of Minnesota, under similar circumstances. I believe I did what was right and proper in that instance, and reference to this Boundary Line, I shall only repeat what I have said that in pursuing the course which I have seen proper to take, I have followed the lights of experience, and the dictates of my judgement. I shall vote for a North and South line, and obey the will of my constituents.

Mr. FLANDRAU. I will not detain the Committee by offering any arguments in favor of an East and West line, more than I have already done, but I desire to combat to some extent, the argument of the gentleman who has just taken his seat. The gentleman has said, that "wise men change their opinions; fools "never." I do not know whether he intends the inference shall follow that he is a wise man, because he has changed his opinion upon the subject of the North and South line, and that everybody who still retain their preference for an East and West line, are fools.

Mr. GORMAN. That is terrible! absolutely intolerable! in my friend. I expressly confined the application of the remark to the gentleman in the other end of the Capitol who had assailed me. I hold up the mirror I had drawn for him to look at. Surely I never intended it for the gentleman from Nicollet.

Mr. FLANDRAU. Well sir, I have merely to state, that if I can show that the arguments which the gentleman has given as the reasons for the change in his views upon this subject, are fallacious, then perhaps the wisdom does not attach alltogether to those who

have changed their views in favor of a North and South line. The gentleman says that it is wise, to change your views when the circumstances so alter as to justify such change, and none but fools refuse to do so. Now sir, the converse of that proposition must be true, and as most of the constituency of Nicollet county adhere to their original views, with the same facts before them as the gentleman has had, I feel it my duty to vindicate them from the logical consequence of the proposition as stated by the gentleman, the bases of his charge, these Railroad grants to the Territory. Now sir, Congress can make no more land in this country than already is here, by grants to the Territory, to private individuals or to Corporations. These grants were originally made to the Territory, and so long as they remain in the possession of the Territory or future State, they add to its wealth as such, but when the Territory or State grant them back to Corporations for Railroad purposes, it does not gain any advantage of taxation over these lands, that it would not have had if the lands had gone into the hands of these persons by pre-emption or purchase, or in any other way. No matter whether the land belongs to corporations for railroad purposes, or to individuals for agricultural purposes, it is all taxable by the State just the same in one case as in the other. If then, we do not lose any land granted for Railroad purposes by establishing an East and West line, we retain as much actual land within our limits by the one as by the other, and after the land passes into the hands of private individuals, what I ask, do we gain or lose on the subject of taxation by these Railroad grants.

But sir, I ask gentlemen who base their arguments for a North and South line, on our Railroad grants, to look at the subject in another point of view. The line of road of more importance probably than any other which received a grant of lands, runs from Winona west to the Big Sioux river, south of the 45th parellel of north latitude, bringing its western terminus outside the boundary of the State, if the North and South line is adopted. This road will be the great thoroughfare of emigration, going westward, for westward it will continue to go. At the terminus of the road will inevitably grow up one of the largest towns in the west, but which must be without our limits if we adopt the North and South line.

Another route second in importance only to the one I have mentioned, leaves the Mississippi near St. Anthony, and following the Minnesota Valley, also finds its terminus on the Big Sioux river, west of the North and South line, both of these routes I regard as much the most important in the State, because they will be, and

must continue to be the great channels of communication between the Mississippi and Missouri rivers, carrying emigrants westward and returning with produce. The termini of these roads will be lost to us with a North and South line, and what great advantage shall we gain from the Railroads of the North? I hold sir, that if the passage of this Railroad grant by Congress, is to have any effect upon the division of the Territory, the argument is in favor of an East and West line. The area of land is the same, the power of the State to tax those lands is the same as if the grants had not been made. It is the same whether the lands are in the hands of Corporations, or private individuals. I hold therefore that the argument of the gentleman from Ramsey do not justify the change in his position upon this question.

Mr. CHAIRMAN. I represent a large constituency, comprising some ten counties, but I represent more particularly, the county of Nicollet where I reside, and in which I was nominated. There are gentlemen on this floor representing nearly every one of the other counties in my district, and of course they can speak as to the wishes of their respective constituents better than I can. But sir, in my own county, the voice of the people is almost unanimous in favor of a division of the Territory by an East and West line; and I feel myself bound to express upon this floor of this Convention, the wishes of that constituency upon this important subject. The arguments I have advanced are such as in my judgment, should be sufficient to induce not only the Representatives here from the northern portion of the Territory, but everywhere in the south-west of the Mississippi river, to go for an East and West line.

Mr. GORMAN. I regret that the gentleman started out as he did, by making the illustration I used for another gentleman apply himself to.

Mr. FLANDRAU. The gentleman misunderstood me entirely. The remark was made by him as having emenated from one of the wisest of Statesmen, that "wise men change their opinions; fools "never." The necessary inference was that if the circumstances to which the gentleman alluded were sufficient to make a wise man change his opinion upon the subject of this East and West line, the same circumstances acting upon myself and my constituents who have remained stationary in our opinions, must place us in the other category.

Mr. GORMAN. I merely speak of an abstract principle. But sir, one word in respect to the argument of my friend from Nicollet, (Mr. FLANDRAU,) he says that whether the grant is made to Railroads or not, the lands will remain the same, and taxation will

remain the same. Now sir, I shall not hold him up in any unfavorable light, but I will simply show that taxation will be increased by the grant of lands to Railroad Companies, for the reason that the construction of Railroads will increase the value of taxable property in the sections of country, through which they run. The gentleman will not deny that.

Sir, the construction of railroad lines into this northern country, will have the effect of bringing emigration to that country and increasing the resident population there. Population brings wealth and wealth brings power. These three elements, population, wealth and power, constitute the glory and importance of a State. That is what will give us additional taxation on these lands in consequence of the Railroad Grant.

But the advantage arising from that grant, does not stop with taxation. The population which must be attracted to this northern country, will give us representation. That representation will give us additional wright in the Congress of the United States. This addition to our population will reflect itself through all the various ramifications of government. No one can calculate its importance. It will build up cities, it will build up villages, it will encourage agriculture and commerce. Is that true? If it is, then I am right. If it is not, then the gentleman from Nicollet is right.

But the gentleman says the termini of these roads will be lost to us with a North and South line. Why, sir, the grant only extends them to the Big Sioux river, and if these are the termini to which the gentleman alludes, they are within the Territory of Minnesota. I presume that the gentleman means that if these roads had extended on to the Missouri River, then their termini would have been lost to us.

Mr. FLANDRAU. No, sir. I said that a North and South line would place the termini of these roads west of the State boundary.

Mr. GORMAN. The termini of these roads are at the Big Sioux River and the boundary proposed for the State is in part, the Big Sioux River. If the road had extended through to the Missouri River, the gentleman's argument would have been good.

Mr. FLANDRAU. If the gentleman supposes that the Big Sioux River is the Western Boundary of the proposed State, he is geographically mistaken. The line as originally proposed, did extend to that point, but that would not have left one foot of the ceded lands within the new Territory. They would not even have a place left to build their Capitol on without first treating with the Indians for the lands. The line was therefore removed further east, and is laid down in the Enabling Act, as commencing with the Red

River of the North at the British Possessions, thence running up said River to the Bois des Sioux River, then to Lake Traverse, then to Big Stone Lake, and then in a straight line to the North-western Boundary of Iowa, having some seven hundred thousand acres of ceded land between the line and the Big Sioux River, and before any gentleman takes the word of any man for this statement, I desire they should take the map and compare it with the Enabling Act, and see if we would not lose, by a North and South Line, the termini of two of the most important Rail Roads.

Mr. GORMAN. It is true that the Big Sioux River is not entirely the line, but it is substantially the line, and these roads meeting that river south of the forty-fifth parallel of latitude, their termini must be within the Territory, and within the proposed State. There is no escape from it. But even if the gentleman was correct in his statement, what is the argument he seeks to derive from it? It is that the State would have the taxation and the power which would result from an increase of population and wealth, but we shall gain still more in these respects, by the North and South Line, and therefore his argument amounts to nothing.

Before I set down, I desire to ask my colleague, (Mr. BECKER,) whether the views I have expressed to the Convention, to-day, are not the views which I distinctly announced to my constituents during the canvass, prior to the election of delegates to this Convention?

Mr. BECKER. If the gentleman refers to me, I will state that the position assumed by him to-day upon this floor is the position taken by him in canvass before the people, as I understood it.

Mr. SETZER. Mr. CHAIRMAN, this question has been fully discussed before the people, and the mind of every member was fully made up when he came into this Convention. I do not think it is proper, therefore, to take up time with further discussion upon the subject. I take it for granted, that a majority of the Convention are in favor of a North and South Line. I hope the question will be taken without further debate.

The question was then taken, and the amendment was not agreed to.

Mr. WAIT moved to amend section one, by adding thereto the following:

"The Seat of Government of this State shall be established at St. Cloud, in "the county of Stearns." (Laughter.)

The amendment was not agreed to.

Mr. BUTLER. I do not know whether it is necessary, but inasmuch as the Mississippi is mentioned as a Boundary, I suppose

it would be proper that the St. Croix should also be mentioned. I move, therefore, to amend in the 11th line of section one, by inserting after the word "river," the words, "to the St. Croix River, "and thence up the main channel of said River."

I will merely remark that the St. Croix River is a part of the Boundary between Minnesota and Wisconsin, as is the Mississippi, and I suppose if one river is mentioned, the other should be.

Mr. BECKER. The gentleman mentioned the amendment which has been offered, to me this morning. If there were any necessity for it, I should willingly support it. The description of the Boundary, however, in my judgment, is as full without as with the amendment, and inasmuch as the report follows the language of the Enabling Act, I presume the amendment had better not be adopted.

Mr. BUTLER. I think the Boundary Line, as defined with this amendment is more distinct. I remarked that I do not know that the amendment is necessary, but I submit that if you put in one river you ought to put in the other.

The amendment was disagreed to.

On motion of BECKER, the Committee, rose reported the Article back to the Convention without amendment, and recommended that the report of the Committee be concurred in.

Mr. FLANDRAU moved to amend the report of the Committee in the first section, as follows:

To strike out after the words, "to wit," and insert "Beginning at the point "where the forty-sixth parallel of North latitude crosses the main channel "of the Missouri River, thence down the main channel of the said Riv- "er to the mouth of the Big Sioux River, thence up the Big Sioux River to "the North line of the State of Iowa, thence along the said line of the State of "Iowa to the main channel of the Mississippi River, thence up the main channel "of said River and following the Boundary Line of the State of Wisconsin, until "the same intersects the said forty-sixth parallel of North latitude, thence west "on the said line to the place of beginning."

The yeas and nays being called for and ordered, on Mr. FLANDRAU's amendment, there were ayes 6, nays 36, as follows:

YEAS—Messrs. Baasen, Day, Flandrau, Stacey, Streeter and Swan—6.

NAYS—Messrs. A. E. Ames, M. E. Ames, Butler, Becker, Baker, Barrett, Burns, Burwell, Bailly, Brown, Curtis, Chase, Emmett, Gilbert, Gorman, Gilman, Holcombe, Kingsbury, Kennedy, Keegan, Leonard, Lashelle, Murray, McGrorty, McFetridge, McMahan, Norris, Nash, Prince, Setzer, Sanderson, Taylor, Tenvoorde, Wait, Warner and Mr. President—36.

So the amendment was adopted.

Mr. FLANDRAU renewed the same amendment, changing the parallel of latitude to forty-five degrees, thirty minutes.

Mr. WAIT moved to amend the amendment by striking out "forty-five degrees thirty minutes," and inserting, "forty-five de-

"grees fifteen minutes," and demanded the yeas and nays upon the amendment to the amendment.

The yeas and nays were ordered.

The question was taken and it was decided in the negative. Yeas 10, nays 32, as follows:

YEAS—Messrs. Baasen, Day, Flandrau, Gilman, McFetridge, Stacey, Streeter, Swan, Tenvoorde and Wait—10.

NAYS—Messrs. A. E. Ames, M. E. Ames, Butler, Becker, Baker, Barrett, Burns, Burwell, Bailly, Brown, Curtis, Chase, Emmett, Gilbert, Gorman, Holcombe, Kingsbury, Kennedy, Keegan, Leonard, Lashelle, Murray, McGrorty, McMahan, Norris, Nash, Prince, Setzer, Sanderson, Taylor, Warner and Mr. President—32.

So the amendment to the amendment did not preavail.

Mr. SETZER moved to amend the amendment by inserting "forty-three degrees thirty minutes.

The amendment was not agreed to.

Mr. STREETER moved to amend the amendment by inserting "forty-five degrees, 10 minutes."

The motion was disagreed to.

The question then recurred upon Mr. FLANDRAU's amendment.

Mr. GILMAN moved a call of the Convention.

The motion was not agreed to.

Mr. FLANDRAU called for the yeas and nays upon his amendment.

The yeas and nays were ordered.

The question was taken and it was decided in the negative. Yeas 9, nays 33, as follows:

YEAS—Messrs. Baasen, Day, Flandrau, Gilman, Stacey, Streeter Swan, Tenvoorde and Wait—9.

NAYS—Messrs. A. E. Ames, M. E. Ames, Butler, Becker, Baker, Barrett, Burns, Burwell, Bailly, Brown, Curtis, Chase, Emmett, Gilbert, Gorman Holcombe, Kingsbury, Kennedy, Keegan, Leonard, Lashelle, Murray, McGrorty, McFetridge, McMahan, Norris, Nash, Prince, Setzer Sanderson, Taylor, Warner and Mr. President—33.

So the amendment did not prevail.

The question being upon concurring in the report of the Committee of the Whole, and the ayes and nays being called for and ordered, there were ayes 32, nays 9, as follows:

YEAS—Messrs. A. E. Ames, M. E. Ames, Butler, Becker, Baker, Barrett, Burns, Burwell, Bailly, Brown, Curtis, Chase, Emmett, Gilbert, Holcombe, Kingsbury, Kennedy, Keegan, Leonard, Lashelle, Murray, McGrorty, McFetridge, McMahan, Norris, Nash, Prince, Setzer, Sanderson, Taylor, Warner and Mr. President—32.

NAYS—Messrs. Baasen, Day, Flandrau, Gilman, Stacey, Streeter, Swan, Tenvoorde and Wait—9.

So the report of the Committee on the Whole was concurred in.

AUDITING COMMITTEE.

Mr. Becker, on leave, introduced the following resolutions, which were adopted.

RESOLVED, That a Committee of three be appointed to audit the expenses of this Convention, and that the Treasurer of the Territory be authorized and directed to pay out of the funds appropriated for the use of the Constitutional Convention, warrants signed by the President and countersigned by the Secretary of this body.

RESOLVED, That the Secretary be directed to furnish the Territorial Treasurer with an authenticated copy of these resolutions.

On motion of Mr. SETZER, at half past four, the Convention adjourned.

TWENTY-SECOND DAY.

FRIDAY, August 7, 1857.

The Convention met at nine o'clock, A. M.

Prayer by the Chaplain.

The Journal of yesterday was read and approved.

The PRESIDENT informed the Convention that JOHN BELL has declined the office of Sergeant-at-Arms.

Mr. KINGHORN having tendered his resignation as Assistant Secretary of the Convention.

On motion of Mr. GORMAN, the said resignation was accepted.

On motion of Mr. GORMAN, Mr. KINGHORN was declared elected Sergeant-at Arms, vice BELL, declined.

On motion of Mr. EMMETT, Mr. GASOWAY was declared elected Assistant Secretary, vice KINGHORN, resigned.

On motion of Mr. KINGSBURY, the Convention resolved itself into Committee of the Whole, Mr. HOLCOMBE in the Chair, and resumed the consideration of the report of the Committee on the "Bill of Rights."

The question pending, being on the amendment offered by Mr. SWAN, to insert in the 12th Section after the word "State," the words, "and have declared their intentions to become citizens of "the United States."

Mr. BROWN. I am opposed to the Section as reported, but objectionable as it is, I think the amendment makes it still more so. Gentlemen will see by reading the Section, that it does not cover the ground which they desire or anticipate it shall cover. As the Section now stands, it reads :

Foreigners who are, or may hereafter become *bona fide* residents of this State,

shall enjoy the same rights in respect to the possession, enjoyment, and inheritance of property as native-born citizens.

It reads, "Foreigners, who are or who may hereafter become "*bona fide* residents." The amendment adds, "and have declared "their intentions to become citizens of the United States." Now, the only construction which can be given to that Section, is that there is a distinction recognized between the future residents of the State. It asserts by implication, that the Legislature may pass a law depriving a certain portion of the residents of the State, of the rights which citizens enjoy in respect to the possession an inheritance of property. Sir, I am opposed to any such provision being incorporated into the Constitution. I am opposed to any thing which shall recognize the possibility of doubt, as to the right of every foreign born resident of the State, to enjoy every privilege in respect to property, enjoyed by the native born citizens of the State. Gentlemen will see by examining the phraseology of the Section, that it does not cover the subject which I presume it was the intention of the Committee who reported the Article, to accomplish.

It was not to prohibit foreigners who reside out of the State, and who reside out of the United States, from holding and possessing property. It makes no prohibition whatever. It merely says that foreigners who reside in the State, shall enjoy the same rights in respect to the possession and inheritance of property as citizens. Sir, is this Convention going to recognize any principle of that kind? Are we going to establish a distinction between foreign and native born residents of the State? I hope not, and I move to amend the article by striking the whole Section out.

Mr. SIBLEY. I rise to a question of order. It is not in order to move to strike out a Section, until it has been perfected.

Mr. BROWN. I believe it would be perfected best, by striking it out.

The CHAIRMAN. The Chair thinks the amendment is not in order at this time.

Mr. BROWN. I think there are members of the Convention who have substitutes drawn up for this Section, some one of which I should be glad to see adopted. I have merely made the motion to strike out the Section, to see whether this Convention is ready to recognize a distinction between native and foreign born citizens.

Mr. M. E. AMES. I think this Section is right as originally reported by the Committee. I have seen no amendment which in my opinion, would improve it. And again, I think that such a provision should be inserted in the Constitution, will not admit of

a doubt in the mind of any one, upon reflection. The Section as originally reported, contains the qualification of actual residence upon the part of those who are to enjoy all the rights and privileges of citizens in respect to property. I think that is the only restriction which it is wise to make upon the possession, and enjoyment, and inheritance of property in this State.

Mr. BROWN. Does the Section as it now stands, prohibit foreigners who reside out of the State, from holding property in the State?

Mr. M. E. AMES. Most certainly; not in direct terms, but in language that is unmistakeable. It says that foreigners who are *bona fide* residents of the State, shall enjoy the same rights in respect to the possession and inheritance of property as native born citizens. Now sir, a great deal was said in the discussion yesterday, and someting has been said this morning about non-resident foreigners coming here, and purchasing large tracts of land, and enjoying all the rights and privileges of citizens while residing abroad. Why sir, no such conclusion can be legitimately drawn, because the premises on which it is based, do not exist. The Section itself assumes that foreigners could not enjoy these rights and privileges without permission. The gentleman from Sibley, is certainly wrong in the conclusion to which he comes, though I would on no account impugn his motives, because I know his integrity and his clear-headed honesty, would prevent him from intentionally leading the Convention to wrong conclusions.

Mr. BROWN. Small favors, thankfully received. [Laughter.]

Mr. M. E. AMES. Now Mr. CHAIRMAN, I believe that provision is right in principle. If I recollect correctly, it is the same as that embodied in the Constitution of the State of Wisconsin. It was adopted there upon the fullest consideration. It was debated by the best talent in the Convention, and after a very full discussion upon the subject, the Convention settled down upon this provision.

Now sir, I am opposed to the English doctrine of Escheats, which the amendment seeks to incorporate into the Constitution. I am here prepared to say that principle which has been engrafted into the Constitutions of several of the States, was borrowed from the English Common Law, and that it had its origin in the feudal system of England. It stands there now a relic of barbarism of the middle centuries, coming down to us from the dark ages. Sir, it should have found no place in the Organic Laws of any of these American States, because it is Anti-Republican and Anti-Democratic in its nature and effects. I do not believe there is a single member

in this Convention who, when he comes to understand it, would see it incorporated into the Constitution of Minnesota.

Mr. SETZER. It is for the reason which has been expressed, by the gentleman who has just taken his seat, that the section, as reported, contains all the qualifications which ought to be prescribed, that I most sincerely hope the amendment will not prevail.

Now, it was remarked by the gentleman from Ramsey, (Mr. GORMAN) yesterday, that bodies of men might come here and settle down amongst us, enjoying all the rights and privileges of citizens, without becoming citizens, or taking any oath of allegiance as a certain set of men belonging to a certain religious denomination have done in Indiana and Ohio. Well sir, suppose they do; they simply deprive themselves of many of the privileges which they might otherwise enjoy. They cannot exercise the right of franchise, and that it seems to me is a sufficient restriction. If they come here and become *bona fide* residents, I see no objection to allowing them to hold and enjoy property the same as citizens. They have to submit to the payment of taxes and assist in sustaining the burthens of the government and I see no objection to allowing them all the rights of citizens in respect to the possession and inheritance of property.

Mr. SIBLEY. I am decidedly opposed to the opinions advanced by the gentleman from Saint Paul, (Mr. AMES.) He seems to think there is not a member of this Convention who will not, upon reflection, concur with him. Now sir, for one, I certainly dissent from any such opinions.

Mr. M. E. AMES. I said I did not believe there was a member of this Convention, who would, upon reflection, uphold the English doctrine of escheats.

Mr. SIBLEY. I am decidedly in favor of what I believe ninety-nine out of every one hundred of our foreign-born population in the new States, are in favor of——of requiring all foreigners who come to live amongst us, and hold property amongst us, to take the iniative step towards becoming citizens of the United States. It is not right to allow persons from other countries to come here and hold property amongst us, who have no interest in common with us; who owe no allegiance to the country in which we live, and who only come here for the purpose of speculating and making money, to take away and enjoy in the country from which they came. Such a proposition, in my judgment, ought not to be entertained by any member of this Convention for a moment.

Now sir, it is very true that the effect of such a provision might operate hardly in some instances. It is impossible to frame such

a provision, as shall, in every single instance, provide proper restrictions, and at the same time protect all innocent parties, but the rule is a good one and will operate well.

But the gentleman says, they pay taxes the same as citizens. Now sir, the mere fact that these men pay taxes entitle them to no special privileges. We all pay taxes, but that is no reason why we should adopt a principle which will allow foreigners to come here and seize our lands and hold them until they have made money enough on them to suit their purposes, and then take the money and carry it out of the country. The whole principle is insane and should not be entertained for a moment. When men come here and are allowed to purchase and hold lands and enjoy the rights and privileges of citizens, respecting property, they should be required to take the initiative of becoming citizens of the United States.

But, while I would thus protect ourselves, I would, at the same time, make no provision which should operate harshly upon innocent parties. It is better, if we can, to adopt some middle ground, which, while it affords us sufficient protection, will do justice to all. I understand the gentleman from Washington, (Mr. SETZER,) has prepared a substitute which will, perhaps, relieve the difficulties which seem to be in our way.

Mr. BAKER. I believe there is no medium ground. I think the section is precisely right as it is. At the same time, I know very well that great injury has been done by the possession of land by parties whom we never see and who never appear here except by their agents. Other people till the soil and in many cases, the only remunerative they ever receive is ground enough to furnish them a final resting place. Such has been the fact to a very great extent, in respect to all the companies for trading among the Indians. But sir, while I desire to protect our actual settlers, I deny the right to prohibit any man from coming here and purchasing property of me, if I have it to sell. The clause means too much, or it means nothing. It is too strong, or it is boys play.

Mr. M. A. AMES. I rise to a question of order. The gentleman is personal in his remarks. Yesterday, he made us a magnificent speech on the otherside of the question. I submit, therefore, that the gentleman is reflecting personally upon the speech he made yesterday. (Laughter.)

Mr. BAKER. That is magnanimous. I believe no man is required to testify against himself. But sir, so anxious am I to have the point correctly and rightly put before the people, that I should be willing to stiltify myself to accomplish that object. I believe

the remark has been made by a member of this Convention, that fools never change. (Great laughter.)

But sir, I want to pin the gentleman down to this point. I ask him when a man has come here and entered a piece of land, and before he has declared his intention to become a citizen, is killed, whether his heirs are not to be allowed to inherit his property? I want to know whether any man in this Convention is prepared to go before the people and support that doctrine? I want it distinctly understood that my vote is against it. The whole thing in my opinion, is wrong. The people of Minnesota will sanction no such doctrine. Something has been said about a substitute, which the gentleman from Washington, (Mr. SETZER,) is going to offer. Sir, that will not improve the matter a whit.

Mr. SETZER. I call the gentleman to order. He has no right to refer to substitutes which have not been offered.

Mr. BAKER. I ask the gentleman's pardon. I will not refer to it again. I always want to be in order. But I say again, that you have no right to deprive foreigners of the right to hold property amongst us. Some of them have acquired rights at a very early day, through their agents. They have never been here at all. But what right have you to deprive them of their property? The whole principle is wrong.

Mr. CURTIS. I am in favor of the proposition as originally incorporated into the Bill of Rights. I have listened attentively to the discussion upon this point, and I have failed to hear any reason given, or any argument adduced, why a person of foreign birth, who comes to reside amongst us, should not enjoy the same rights in respect to the possession and inheritance of property, as a native born citizen.

Much discussion has taken place in regard to the introduction of foreign capital, and I think the whole question in reference to such introduction, has been (not designedly,) misstated. But sir, I regard all this discussion as outside the question before us, and out of place in this Committee upon any subject which is before us. It ought not to be introduced here to prejudice the real question before us.

Now sir, the grounds of objection urged against this section by different members of the Convention, have been various. One gentleman objects on the ground that the section recognizes a distinction between an alien and a native born citizen, and hopes it will not pass for that reason. Another gentleman asks whether you will allow a man who will take no part in the making of our laws, and who will not make his declaration of intention to become

a citizen, the same rights and privileges with another person who consents to pass through this ordeal. Now, I would like to have any gentleman place his finger upon one provision in the section, as originally reported, and say to this Convention that it grants to foreigners residing amongst us, one privilege which he, as a member of the Legislature would vote to pass a law to prohibit?

Mr. BROWN. We do not wish to make any distinction whatever.

Mr. CURTIS. The gentleman does not wish to make any distinction. The Section simply gives to foreigners who are *bona fide* residents the same rights and privileges respecting the possession and inheritance of property with native-born citizens. If there is any gentleman here who would be willing to pass a law denying them that privilege, let him put his finger upon the point in the Section that he would change. If you would exclude these people from any right in that respect, what is it? If any gentleman would deprive *bona fide* residents of any of these rights, I should like him to tell us just what it is that he would deprive them of. Another gentleman has spoken of the doctrine of escheats. Now, sir, when a foreigner has acquired land from the General Government, I deny that we can incorporate anything into our Constitution which will deprive him of that land, or that will deprive him of the right to transmit the title to his heirs. The patent which he receives from the Government grants him the land for his benefit and for the benefit of his heirs, and any provision incorporated into this Constitution in derogation of the rights given him in that grant would be void. But, sir, I apprehend that the real object of this Section has been overlooked. It is not for the protection especially of large foreign capitalists. It is not to hold out inducements to foreign capitalists to come here and invest their money and still remain foreigners, and, as was remarked by another gentleman, when they have had sufficient money, transfer it to another country. The main object was, to encourage emigration to the country. There is a large country within our limits yet to be settled, and the object of the provisions which have been reported in this section was, to throw around the foreigners who should come among us and become *bona fide* residents the shield and protection of law—to assure them that if they come and acquire property here, and die before they have complied with our laws upon the subject of naturalization, their property shall go to their heirs and not escheat to the State. In regard to the other view which was taken by one gentleman, that you should prevent the offering of a premium to non-residents, by taxing their property higher than

that of residents, I have simply to say that such a provision could not be carried out, because it is in opposition to a proposition which this Convention will accept in the Enabling Act; and if you make this restriction against the *bona fide* residents which the amendment contemplates, you will in fact offer a premium to non-residents—the very thing which all of us are anxious to avoid. I hope the amendment will not prevail. I believe the object of the original section is beneficial, and that it will have the effect of doing an act of simple justice to the foreigners who come to reside amongst us.

Mr. SHERBURNE. I have not heard all the discussion which has taken place upon this subject, but I find myself compelled to disagree with the views expressed by some of the members who have spoken. Mr. CHAIRMAN, I have some respect for the opinions and laws from which we derive principally, and almost exclusively, our institutions. I think there is something in the Constitution and Laws of the United States which may serve as a profitable guide for us in this Convention. If this proposition is passed as originally reported, there is no distinction made between the people of this country and those of any other country. Under that Section, any man from Germany, England, France, or China, may come in here with money and purchase real estate within our limits. He cannot purchase it of the General Government, because under the Laws of the General Government he is required first to become a citizen of the United States.

Mr. BROWN. That is not necessary where the land is subject to private entry.

Mr. SHERBURNE. It may be so. I am not very familiar with the Laws of the United States upon the subject of purchasing lands; but whether it is so or not under the United States Laws, it is so in England, and it is so in most of the States of this Union. I hold that there should be a distinction, and that the man from England, from France, or from Germany, should not be allowed to come here for a week or for a month,—just long enough to comply with the terms of the law in making him a *bona fide* resident,—invest his money in our lands for the purpose of speculation, and then, when he has made money enough, return to his own country with his wealth. Such men should not be placed upon terms of equality with our own citizens. I hold that there should be a distinction. It is due to the foreigners who have become citizens that a distinction should be made. I do not believe you can find a single foreign-born citizen in the country who would be willing that foreigners should be allowed to come here and, without declaring their inten-

tion to become citizens, be placed upon terms of equality with those who have declared their allegiance to our institutions.

Mr. CURTIS. Will the gentleman allow me to ask him one question? It is this: What specific right would you deny the foreigner?

Mr. SHERBURNE. I would deny him the right of holding the fee-simple to real estate, and the right of inheritance. I state distinctly that I would deny him that right until he has shown by a compliance with the forms of law, that he intends to become one of us, and to acquire the rights of citizenship—until he has shown that he intends to become a citizen, and his children after him if you please. Until he has thus shown his intention, he has no right and ought to have none by our Constitution, to hold real estate. He has no right to become the proprietor of the lands of our domain. I say, again, even upon the policy for which we have shown too much disposition, to pander to the foreign vote, it is for the interests of the foreigners amongst us that the restriction should be made. I believe, if it were to be submitted to the foreign voters of the country they would not permit men to come here and enjoy equal rights with us who had no sympathy with our institutions and had no intention of becoming citizens. I do not like the amendment which has been proposed exactly, but I think it is much preferable to the original section.

Mr. A. E. AMES. I sympathize with the gentleman in the object which he wishes to accomplish, but I say as I have already said, I do not believe we can carry out such a purpose as he wishes to see carried out, without interfering with the primary disposal of the soil.

Mr. SHERBURNE. We cannot interfere with the primary disposal of the soil. The Laws of the United States will stand, of course; and we have no power to interfere with their operation. But I spoke of regulations for our own protection.

Mr. BECKER. I have taken no part in this debate, for the reason that I have not been able to come to any satisfactory conclusion in my own mind as to what is proper, in connection with the subject. This is an important question; we have come to the consideration of an important part of our Constitution, and I am exceedingly anxious that this Convention should take such action upon it as shall redound to the prosperity of the future State of Minnesota. Now, sir, there are a great many evils connected with this question, look at it in what light wou will. I believe it is the settled policy of Minnesota to invite capital here from whatever quarter it may come—whether foreign capital or home capital. For this

reason the Legislature have abolished all laws in relation to usury. They have said to capitalists, "You may come here and invest your "money and receive what it is worth." The law as it now exists, I think, is firmly enthroned in the hearts of the people. If the question were to be submitted to-day, I believe it would receive an almost unanimous vote to retain it as it is. Now, it is a question in my mind, if we adopt the amendment proposed, or adopt the section as it came from the Committee, — whether it will not restrict the influx of foreign capital amongst us. I have in my mind now one gentleman, a member of the British Parliament, who desires to send money to this country for investment in lands. I know of another in Glasgow who desires to send fifty or a hundred thousand dollars here for investment. But what course can we take so as to secure this capital to be used amongst us, and at the same time protect ourselves and our citizens? That is what we want to get at. Mr. CHAIRMAN, I do not desire to see anything adopted here which looks like an exclusive system — which savors of the exclusive policy of the Eastern countries, manifesting itself in high protective tariffs which fetter commerce and restrict trade. It is the principle of exclusion which, when carried to its fullest extent, would make this country what the Chinese have made their Empire. Sir, I do not want the policy adopted of considering all outsiders barbarians. I want capital to come here for investment. I do not care whether it is Queen VICTORIA'S money, LOUIS NAPOLEON'S money, or whose it is. We want the capital to come here for investment. Again, I suppose it is possible that wealthy men in Europe may desire to come here for a residence — perhaps for a short time, perhaps for a large number of years. I know that Lord BROUGHAM has what he calls his country-residence in France. Now, sir, shall we shut out every class of foreign gentlemen who may be willing to come here and place their lives and fortunes under the protection of our laws, because they do not choose to renounce their allegiance to their native country? It seems to me this is an exclusive doctrine, which I shall not be willing to adopt. I am opposed to all exclusive doctrines. I am opposed to fettering the commerce of the world. For these reasons I have not been able to see anything satisfactory either in the amendment pending or in the original section. There have been some grave objections urged against allowing foreigners who will not declare their intion to become citizens, to hold real estate amongst us, and there are as grave objections to the adoption of an exclusive policy toward that class of persons. But I do not apprehend any very serious difficulty from this class of foreigners who will choose to

come and live among us. It seems to me, the mass of foreigners who will choose to come here and become citizens must always largely preponderate, and I can see no very serious objection to allowing them to come and invest their money and not require them to take an oath to support the Constitution of the United States. I frankly confess, however, that I have not been able to make up my mind definitely upon the subject, and am not prepared to submit any proposition which shall relieve even my own mind from the difficulties which I can see before me. I have merely thrown out these suggestions for the consideration of the Convention.

Mr. SETZER. The range of debate upon the part of those who have advocated the original proposition, as reported by the Committee, has been so large, embracing so many subjects, that I shall not attempt to reply, except to two or three points which have been made. The gentleman from St. Paul, (Mr. BECKER,) tells us that foreign capital should be invited to invest in our lands; and that men who reside in England may send their capital to purchase our lands. That would be reached under the original Section, which provides that the foreigners who are to enjoy equal privileges with ourselves, shall be *bona fide* residents.

But the gentleman from Washington, (Mr. CURTIS,) wants any gentleman to point out any specific right which he would have foreigners deprived of. Now, sir, so far as I am concerned, I would have them deprived of the right of inheritance of real estate. I am perfectly willing that the alien should hold property here, during his life. We cannot prevent that, in fact, if we would, for the primary disposal of the soil vests in the United States, and as long as they conform to our laws, we cannot interfere with them during their natural life, but we can prescribe that subjects of Queen VICTORIA shall not inhereit real estate within our limits.

Mr. MEEKER. What is the evil apprehended of which gentlemen have been speaking to-day, and about which gentlemen were speaking yesterday? It is that a foreigner residing abroad should acquire large landed property within our borders, and transmit it to his heirs, also, non-resident foreigners, and so on to the latest degree. That is the evil apprehended. Now, what is the remedy which we, sitting here, propose to apply? Have we it in our power to root it out totally? If so, I am in favor of adopting that course. For one, I would like to see the evil provided against beyond the possibility of its occurrence. But, sir, it cannot be accomplished. The laws of the United States, passed in pursuance of the Constitution of the United States, reserve to the general Government the right

of the primary disposal of our entire public domain. We cannot, therefore, even, as a Constitutional body, interfere to any extent whatever with the primary disposal of the public domain within our limits. Foreigners, non-residents, can go into our land offices and enter all the lands subject to private entry within the State which they can pay for. They can hold these lands to the exclusion of actual settlers; and there is the additional evil, that the money which they pay does not remain in the Territory, but goes into the National coffers. There is the great drawback upon us, and upon any new country. I would gladly get rid of it if I could; but, how is it to be accomplished? The evil applies to non-resident Americans, as well as foreigners, who come here and purchase up large tracts of lands, which lie unoccupied for many years, much to the injury of the actual settlers.

But, sir, there is no help for it. We cannot get round laws passed by the Congress of the United States in pursuance of the Constitution of the United States. The patent issues to the purchaser and to his heirs and assigns. He can hold the land through his natural life, and then he can transmit it to his heirs. The evil is a great one. It is one from which we have suffered from the earliest of the Territory, but it is one past our power to remedy.

The question now arises, whether, under the laws of the United States, we can impose any restrictions upon the non-resident purchaser. It is very likely we can, but where shall we begin? The right of the assignment sale and inheritance of property is derived from the general Government.

Mr. MURRAY. I wish to ask the gentleman whether the regulation of the title to property acquired by a foreigner under the general Government, does not vest in the State where it is located, and if it has not been decided in the Supreme Court in a case, the name of which I do not now recollect?

Mr. MEEKER. Not so as to infringe upon any right acquired under a law of the United States. Such a law would be declared unconstitutional. Why, sir, what would be the meaning of a law which would allow a foreigner to come to a land office and purchase land of the general Government, which would be insufficient to protect him in his right to the property thus acquired afterwards? It would be tantalizing and disreputable. The thing never can exist. The law once entered upon the Statute book of the United States, if passed in pursuance of the Constitution, is the supreme law of the land, and no act upon the part of any State authority can interfere with it. No, sir, the only thing we can do, is to discriminate between property acquired by foreigners from other

sources than the United States, and that acquired by citizens. But, would such a discrimination be wise? Would it be good policy? That is the question for us to consider. To that extent the power of this Convention extends. But, mind you, the remedy does not touch the great body of the evil of which our people so much complain—that of foreigners being allowed to come into our Territory and purchase vast tracts of land at the unimportant sum of a dollar and a quarter per acre.

But, again, is it policy to invite foreign capital to our borders for investment? We are now inviting it from whatever quarter it may come, whether from Massachusetts, from England, or from whatever source it can be obtained. Is it policy to require the foreigner to disavow his allegiance to the mother country before we allow him to purchase property of our private citizens—for we cannot help his purchasing of the Government? Would the people of this country like to have such a restriction put upon their actions? Would they like to be prohibited from selling their property to the best purchaser, if that purchaser happened to be an Englishman? Is that a proper or wise restriction to place upon our countrymen, in this free and enlightened age? I leave it for the Convention to decide.

Mr. SIBLEY. I think the gentleman who has just taken his seat is like a certain personage we read of, who fought wind-mills. He has erected certain paper fortifications of his own manufacture, and then succeeded in demolishing them. Now, sir, we are not dealing with precisely the state of things which exists at the present time exclusively. Gentlemen have found an insurmountable obstacle in the United States laws. We do not pretend to say that as far as the primary disposal of the soil is concerned, anything that we can do will invalidate an act of Congress. But the simple question before the Convention is, whether all the world shall be put upon a par with the citizens of the United States, or with the men who have declared their intention to become such? It is whether you are to allow the residents of England, France or Germany to come here and purchase whole townships of land?

Mr. MEEKER. You comprehend it.

Mr. SIBLEY. You cannot prevent them from purchasing from the Government, of course. But the law of the United States, I apprehend, does not regulate the right of inheritance in Minnesota.

Mr. BECKER. I ask how you are to prevent the property purchased by a foreigner from descending to his heirs?

Mr. SIBLEY. You cannot, but I apprehend we can say who shall be his heirs.

Mr. BECKER. I wish to ask the gentleman whether we have the right to prevent, by the passage of any law, the land purchased by a foreigner of the Government, from descending to his natural heirs?

Mr. SIBLEY. I do not pretend to say, nor do we propose by any act of this Convention to say, who his heirs shall be. But I apprehend we have the right to regulate the laws of descent. But, sir, I did not intend to refer to this view of the subject at all. The state of things now existing will be of short duration. We can look forward to a very short period in the future, when the laws of the United States with reference to the primary disposal of the soil, will have no application to Minnesota. We are framing a Constitution, not for the present alone, not for the next year or two, but for all future time, unless the people of the State shall interfere to change it. And I still hope that this Constitution will take it upon itself, by the adoption of some sound and wise principle, to make that discrimination, which I consider necessary, between the citizens of the United States, or those who have declared their intention to become such, and those who owe no allegiance, and will acknowledge none to our Government or institutions. Sir, there should be a distinction. Not even the plausible reasoning of my friend from Ramsey, (Mr. M. E. AMES,) can convince me that such a distinction does not and ought not to exist.

Mr. BAKER. I will refer the gentlemen to a single case. In 1852, a man with his wife came here directly from Ireland. He went up the river and purchased with his property about six square miles of land. He has since died, leaving one child, having neglected to declare his intention to become a citizen of the United States. Now, I ask if that property is to revert back to the State?

Mr. SIBLEY. There is no doubt at all, that whatever we do with reference to fixing certain great principles, there will arise cases of great and peculiar hardship under them. But I take it for granted that we are not to establish any rule from mere isolated cases. There may be exceptions of considerable importance, but they weigh nothing against the importance of the rule itself.

Mr. BECKER. I hope the Convention will indulge me in one remark, merely in reply to the gentleman who has just addressed the Committee. A good deal has been said of the danger of foreigners coming in and buying up large tracts of land and holding them merely for speculation. Now, sir, the experience of every man tells us that the policy of the General Government on the subject of public lands, would prevent anything like this. The only way in which any desirable lands can be obtained in the Terrritory,

or have been obtained for the last three or four years, is by pre-emption. Under the policy of the pre-emption law, lands are opened to pre-emption for years before they are brought into market and exposed to public sale. Nearly all the better portion of the lands are by these means, taken up by citizens and those who have declared their intention to become citizens of the United States, before they are opened for speculation. If this policy upon the part of the General Government prevails in future, we shall have no instances such as the gentleman from Sibly, (Mr. BROWN,) yesterday feared, of foreigners coming here and taking up whole counties of our best lands for purposes of speculation.

Mr. SIBLEY. I would like to ask the gentleman whether he has any assurance that the policy of the General Government with reference to pre-emption, will be continued?

Mr. BECKER. I am pretty certain that they will continue it.

Mr. SHERBURNE. I have but a single remark to make. It seems to me that the policy recently adopted by the General Goverement is the very thing from which we have reason to apprehend danger. Persons will come here and purchase lands by pre-emption, and we cannot prevent it. Then what is there to prevent foreigners from coming here and purchasing lands of pre-emptors? I have known a whole county settled up within sixty days, and what is there to prevent a foreigner with large means, from going there and purchasing the whole county of the pre-emptors? I know that entire townships of land in other States, are owned by men residing in England, which are and have remained unimproved for the last half century, while the country about it has been settled up. I know of no means by which such property can be taxed higher than that owned by residents, and I should depricate such a policy if it could. But the effect is, that the country around is necessarily so thinly settled, that the inhabitants suffer largely from the owner, ships of these non-residents. I know of a number of such instances and I know an instance of a man who came to this country and became naturalized for the purpose of securing large landed property and then returned to his native country, where he remains. I would be opposed, if I could prevent it, to having large amounts of land go into the hands of individual citizens, but we can and ought to prevent it from going into the hands of non-resident foreigners.

Now, sir, the only argument I have in favor of leaving out such a restriction, is, that it will prevent capital from abroad from coming into the country. Now, sir, it is true that some of us need money, but I am not certain that because we need money we are justified in adopting a great Preamble into our Constitution which

we hope is to last for a very long time. I hold that we should look to the future as well as the present. It may be that we may lose a few dollars which would otherwise be invested here. It may be so and it may not. I apprehend that the financial ability of our capitalists will be able to devise means by which they can obtain money from abroad without the adoption of a principle into the Constitution which would enable non-resident foreigners to become possessed of our lands. It seems to me that it is a principle which we are seeking to adopt merely for our temporary advantage, which gentlemen will regret afterwards.

Mr. M. E. AMES. I will trespass upon the attention of the Convention for only a very few moments. From the range the debate has taken, I beg leave to call the attention of the Committee to one or two points only, presented by my colleague who has just spoken and by the gentleman from Dakota, (Mr SIBLEY,) who very properly seems to regard this matter as one of considerable interest. My candid and dignified colleague, (Mr. SHERBURNE,) says this is a question whether we shall open the field to the whole world by a provision which we shall adopt in our Constitution, to come and take possession of the lands of our Teroitory. Well, sir, that is one mode of stateing the question. But, sir, if the opinion had not been uttered in a grave and serious manner to this Constitutional Convention, I should have thought he was talking as lawyers sometimes find themselves compelled to talk for the interests of their clients. But, sir, this opening one whole Territory for the possession of outside Barbarians, is really a novel proposition.

Mr. SHERBURNE. My proposition was merely to express my assent to the opinions of those who had manifested enough interest in our future prosperity to express their opposition to foreigners coming here with no intention of residing, purchasing and holding unimproved, our lands.

Mr. M. E. AMES. The sentiment is certainly a very laudable one, but I call the attention of the Committee to one circumstance in which we are placed, which will have a tendency to prevent the occurrence of any disastrous consequence from any such irruption from outside Barbarians. We are supposed to have at the present time, at least 200,000 actual, *bona fide* residents in the Territory, most of them are located in the agricultural districts and are in the possession of more or less landed property. The lands already occupied by these 200,000 settlers cover a great portion of the Territory, and the General Government, as has been suggested by my colleague on my left, (Mr. BECKER,) has adopted the policy, which we have every reason to suppose they will continue, of

opening up the lands for several years to pre-emptors before they are brought into market. I venture to say, that at the present time, there is scarcely a section of land worth having in the Territory which is in the market, subject to private entry and which could be entered by an alien. Then I ask my colleague, (Mr. SHERBURNE,) I ask the gentleman from Dakota, (Mr. SIBLEY,) how in the name of common sense a German prince or any foreign capitalist, is to come here and with his thousands and hundreds of thousands of dollars to buy up whole townships of our domain? I apprehend the thing is entirely impracticable. Then as to their coming here and purchasing lands at second hand of our citizens, why, Mr. CHAIRMAN, I have sufficient confidence in the shrewdness of our people to believe they would make bargains such as would enrich them to an extent that would compensate for the inconvenience we should be likely to suffer in consequence of the purchase.

I concur entirely in the views expressed by my colleague, (Mr. BECKER,) and I have risen merely for the purpose of seconding his views. I will state another case. The gentleman says that the effect of failing to adopt the restriction which the Committee have under consideration, would be to extend an invitation to foreigners to come here and purchase our lands and to hold them while they refused to take an oath of allegiance to our institutions or to renounce their allegiance to the powers that be, in the country from which they came. And the consequences he deduces from it, is that they would obtain and hold an amount of real estate dangerous in the extreme to our prosperity.

Now, Mr. CHAIRMAN, with all the respect which I entertain for my dignified friend from Dakota, and with all the confidence which I have in his excellent judgment upon matters of this kind, I must confess that it struck me his reasoning was not entirely new. It was the same argument which was very freely used in the days of the elder ADAMS. It was urged then, that there was a dangerous set of men in our midst—men who owed no allegiance to our country and had no sympathy with our institutions, and it was under the effect of such reasoning that the Alien Law, of which the country at the present day is not proud, was passed. I do not say certainly that his argument goes to the same extent as those which were used in support of the Alien Law, but I do say that if the gentleman will reflect, and if every member of this Convention will reflect for a moment, they will see that the system of reasoning is precisely the same; and hence it is that I am surprised to hear such arguments from so distinguished a Democrat upon the floor of this Convention. Now, Mr. CHAIRMAN, I apprehend that

we can have no reasonable ground for fear, or that there exists the slightest ground for fear, that we shall have so large a number of aliens among us, the holders of real estate, as even to endanger the peace and prosperity of the State.

Mr. SETZER. They have in Utah.

Mr. M. E. AMES. I would suggest to my friend from Washington, that they have some other things besides in Utah. They have some domestic institutions in Utah which we have not, and I hope to God, never shall have in Minnesota. But, sir, I object to the incorporation of such a restriction in this or any other provision of the Constitution. The principle is bad; the policy is dangerous, and I predict that if we engraft such a principle upon our institutions, making so invidious a distinction between citizens and aliens we shall find when we go before the people, it will not result to the credit of this Convention, nor in the support of our Constitution. Sir, the principle of restriction is wrong. It is one which we have procured in our American Constitutions from the common law of Great Britain, and has descended, as I said before, from the old feudal customs of the Middle Ages. But here, in the middle of the nineteenth century, I submit that it is time we should pause before we engraft such a provision upon our institutions. I submit that it would not be creditable to us to send forth to the world a Constitution with such encumbrances engrafted upon it. It can serve no purposes of utility to us, and it would result in the grossest injustice and hardship to others. It would rob families of the property acquired by the labor of men who had neglected to take the incipient steps towards becoming citizens of the United States, and consign them to destitution and poverty. Suppose an alien comes here—and I have known of a dozen such instances—and at once goes out and takes up his quarter-section of land and makes improvements upon it before declaring his intention to become a citizen. Now, suppose he sends for his family, and before he had declared his intention of becoming a citizen, the man dies; if this provision is to be incorporated into our Constitution, what becomes of his property? It escheats to the State of Minnesota, and the widow and orphan children are left without a dollar for their support. I could go on specifying similar instances where the grossest injustice would result from the adoption of this provision, almost *ad infinitum*, while on the other hand, I can see no desirable protection to the other classes of community, which would be afforded by the enunciation of such a principle.

Mr. SIBLEY. I will not detain the Committee by a further continuance of this discussion, but I wish to say a word in reply to

the gentleman who has just addressed the Committee. The gentleman seems to think I have made use of precisely the same argument which was used in advocating the Alien and Sedition Laws of the elder ADAMS, and he seems to think I am trying to secure something of the same sort for Minnesota.

Mr. M. E. AMES. I said nothing of the kind. The gentleman's Democracy in Minnesota is too well established to be questioned from any source.

Mr. SIBLEY. I thank the gentleman for his explanation. But, sir, I intend to reply in very few words to the particular branch of argument to which the gentleman adverted in his remarks. The gentleman pre-supposes a case in which the operation of the principle which I have advocated, would work injustice to aliens. The gentleman seems; in his zeal to protect the aliens who may acquire property in the State, to quite forget that there are rights also due to our citizens and to those foreigners who have come among us, and have taken the oath of allegiance to our country. He would allow that class of foreigners who come here simply to make money, who have no sympathy with us, and who will not take any oath of allegiance or declare their intention to become citizens, the same privileges with those who have left their native country and have adopted ours, who have renounced their allegiance to all foreign powers and have declared their allegiance to our country. Is that right? I care nothing about the *bona fide* residence. A person may become a *bona fide* resident in three days, or three minutes after he arrives, according to circumstances. But what I wish to do, is to make a distinction between those who come here and identify themselves with us by declaring their intention to become citizens, and those who refuse to identify themselves with us and come here for the sole purpose of speculation.

Mr. CURTIS. I rise for the sole purpose of drawing the attention of the Committee to one fact, which I think has been overlooked in this discussion. The original proposition gives to foreigners who are *bona fide* residents, the same rights in regard to the possession and inheritance of property with citizens. The amendment is to require that they shall first declare their intention to become citizens before they shall enjoy that right. These are the simple questions before the Committee. It seems to me the discussion has taken a very wide range outside the questions before the Committee.

Mr. GORMAN. Since the few remarks which I made yesterday upon this question, I have consulted Vatell's Laws of Nations. It treats of the laws which are common to all the civilized nations of

the Earth, and I think will settle some of the questions which have divided this Committee. He says that every nation has the right to prohibit the possession or inheritance by aliens of all lands and immovable property. But under the laws which regulate all civilized nations, we have no rgiht to prohibit foreigners from possessing and enjoying movable property—to contract debts or be contracted with, to sue and be sued. The right to sue is expressly granted under the Constitution of the United States. The right to make a will while residing in a foreign country is regulated by international treaties. But I read from Vatell :

Every State has the liberty of granting or refusing, to foreigners, the powers of possessing *lands* or other immovable property within her territory. If she grants them that privilege, all such property possessed by aliens, remains subject to the jurisdiction and laws of the country, and to the same taxes as other property of the same kind. The authority of the sovereign extends over the whole territory, and it would be absurd to except some parts of it on account of their being possessed by foreigners. If the sovereign does not permit aliens to possess immovable property, nobody has a right to complain of such prohibition, for he may have very good reasons for acting in this manner, and as foreigners cannot claim any rights in his territories, they ought not to take it amiss that he makes use of his power, and of his rights in the manner which he thinks most for the advantage of the State. And as the sovereign may refuse to foreigners the privilege of possessing immovable property, he is doubtless at liberty to forbear granting it except with certain conditions annexed.

Since the foreigner still continues to be a citizen of his own country, and a member of his own nation, the property he leaves at his death in a foreign country, ought naturally to devolve to those who are his heirs, according to the laws of the State of which he is a member. But notwithstanding this general rule, his immovable effects are to be disposed of according to the laws of the country where they are situated.

Now, the laws of nations gives to the foreigner the absolute right to hold personal and movable property, to sue and be sued, to contract debts and be contracted with, and therefore, the only question, which this Constitution can effect, is the question of fee in lands and of inheritance.

Mr. BECKER. While my colleague is upon this subject, I will call his attention to a provision in the Enabling Act which forbids this State from any interference in the primary disposal of the soil. I would suggest that inasmuch as foreigners can purchase lands of the general government, this Convention cannot prevent them from obtaining and holding any fee in lands.

Mr. GORMAN. By the laws of Congress and by our international treaties, foreigners are permitted to purchase any kind of property of the general government. Now then, the question arises whether the State, being independent and sovereign, has the right to control the possession of such property by for-

eigners within its limits. By the Constitution of the United States, all powers not expressly granted by Congress, are reserved in the people of the States. Therefore the State has full power to prohibit foreigners from purchasing immovable property within its limits of private individuals. But the laws of Congress and our international treaties permit foreigners to purchase property of the United States; therefore, we cannot prevent the lands belonging to the general government, from going into the possession of foreigners, if they acquire it of the government. But we have full power over the laws of inheritance and descent, and the only practical question before us is, what provisions we shall make in reference to the laws of inheritance and descent. This is the real question before us, if I am right; and I think I am. It is important that we should be right in respect to the provisions which are vested in us, for the laws of Congress and the international law and our international treaties are paramount, and we should understand what they are.

Mr. SIBLEY. I wish to ask the gentleman a question before he takes his seat. We, who support the amendment which has been offered, do it partly on the ground that Congress has recognized in the pre-emption law, a distinction between a foreigner who has declared his allegiance to the Constitution of the United States, and one who has not. Will the gentleman state what were the reasons which induced Congress to make that distinction?

Mr. GORMAN. I will reply to the gentleman before I get through. Or, perhaps, I may as well reply to him right at this point. The gentleman asks the question, upon the supposition that I disagree with him in the position which he has taken. I do not disagree with him upon this point. The Constitution of the United States says that uniform laws upon the subject of naturalization, shall be passed. And what do they mean by it? They mean that the Constitution upon that subject shall be conformed to by persons coming from a foreign country, or they shall not become citizens. And sir, in my opinion, that compliance ought to to be made a requisite to the permission to possess and inherit immovable property. I not only think it ought to be made imperative, but I think that when Congress made the iniative step in its compliance, a requisite to the right of a foreigner to avail himself of the benefits of the pre-emption law, it was upon a great principle of public policy—it was upon a principle of equality—upon the principle of equal rights to all. It gives you, who are a native citizen, the right to avail yourself of the benefits of the pre-emption law. It gives the foreigner no more and no less. It

should give him no more, and he should not ask to have more. He has that right. But, without complying with the requirements of the laws of Congress on the subject of naturalization, whether the foreigner who acquires what may be called a *bona fide* residence, of three or four or twenty days, as the case may be, shall be allowed to enjoy equal rights with citizens, in respect to the rights to possess and enjoy property and to devise it by will, is the question before the Committee, as I understand it. Sir, I answer no. He should be required when he comes here either first or last, to comply with the laws on the subject of naturalization before he should be allowed to devise property by will.

Does anybody believe that the foreign born population want more privileges than are given to the native born citizens? Sir, the right to come here and acquire a fee to property and to inherit it without taking any steps to become a citizen, gives to him a right superior to that possessed by native born citizens.

Mr. BECKER. Does not the gentleman consider it a privilege to be a citizen?

Mr. GORMAN. It is a political privilege to be a citizen. It is a political privilege to be allowed to vote, to hold office and to participate in the affairs of government. You give him the privilege under certain regulations, and you should prescribe clearly and unequivocally in this Constitution, what those regulations are. Otherwise, who knows but a Know Nothing Legislature may come into power and prescribe that before a foreigner shall be allowed to vote, he shall have resided in the country for twenty-one years? But, I see the point my friend is at. It is this: The right to vote is a political privilege. The right of inheritance and fee in the soil is a different thing. It does not belong to any class of political rights. Well sir, to answer the question of the gentleman directly: it has been a rule among American statesmen to regard political rights as blessings conferred upon our foreign born population. And sir, I apprehend that it is a blessing and a right which no member of this Convention would deprive him of. I apprehend that every member of this body would support the proposition that every foreign born person who has made his declaration to become a citizen of the United States, and has resided in the State for six months, or for whatever time is prescribed for American citizens, shall be entitled to all the rights and immunities that belong to our political system.

But we must not confound political rights with the rights of property. His political rights are protected by the general government to a certain extent. He enjoys the protection of the flag of

our country, and he enjoys that protection from the moment when he has taken the oath of allegiance—when he has declared his intention to become a citizen of the United States. That is the ground Democrats take.

Now sir, shall we permit a foreigner to come in here and refuse to recognize our government. You require Americans to do it. You required each one of us, when we entered this hall, before we proceeded to business, to take an oath to support the Constitution of the United States. You required it of us as Americans. And is it proposed that we shall place foreigners in a position, in respect to property, superior to ourselves? You, Mr. CHAIRMAN, are a citizen by birth. My colleage, (Mr. MCGRORTY,) is a citizen by adoption, and yet you stand upon terms of perfect equality, and all the Democratic party say "Amen" to it. But if you allow foreigners to come here, and without even pretending that they ever intend to become citizens, without taking any of the initiative steps to become such, to enjoy the same rights in regard to the possession and inheritance of property, you place them upon a position superior to that which you assign our native or adopted citizens.

Mr. M. E. AMES. How superior?

Mr. GORMAN. You allow him the same rights and privileges without imposing upon him the obligations of a citizen.

Mr. BECKER. Is it not a privilege to be a citizen?

Mr. GORMAN. The General Government requires it in case of pre-emption. Now, will you allow a man to come here and take the oath of allegiance or not, as he pleases, and yet allow him the enjoyment of all the rights and privileges in respect to property, that you allow to citizens? I say if you allow him all these rights and privileges, he should be required to take the oath of allegiance.

Mr. BUTLER. He ought to be put in irons until he takes the oath.

Mr. GORMAN. Well, I do not think he should be. I think our laws ought to induce him, by fair, persuasive, common sense reasons, to become a citizen at as early a day as possible. But, sir, I do not apprehend any very serious calamity to this country from foreigners who come and live amongst us, who will not become citizens. They have the right to come here. Our international treaties give them the right to come here, independent of your laws, and hold, and enjoy, and possess every species of property, unless forbidden to hold real estate by the Laws of the State.

Mr. BECKER. I want to ask the gentleman this one question. Learned as he is in international law, I want to ask him, when a

foreigner comes here to our Land-Offices and purchases a quarter-section of land of the General Government, whether the future State of Minnesota can deprive him from having that property descend to his child?

Mr. GORMAN. That is the precise point to which I was coming. By our international treaties, a foreigner may come here and purchase land of the General Government. Now, sir, we do not pretend to interfere with the primary disposal of the soil. If we come into the Union as a State, we are forbid from so interfering. I answer, therefore, we cannot prevent a foreigner from devising by will the property which he has acquired of the General Government.

Mr. BECKER. Then what do we want of the declaration that foreigners who may be *bona fide* residents shall enjoy the same rights and privileges respecting the possession and inheritance of property with citizens?

Mr. GORMAN. My opinion is, that the whole thing does not amount to three rows of pins. I am willing to leave the whole subject to the Constitution of the country and our international treaties, and the laws of Congress. But if you are to go further, why not leave it to the Legislature? It is a legitimate subject of legislation. It is an act of sovereignty connected with legislation. It is mere legislation and nothing else. But if you are to put anything into the Constitution with reference to it, the question before us as I understand it, is, whether foreigners without being citizens, shall own immovable property. I say no. It is bad policy. It is unjust to our adopted citizens, to require that they shall file their declaration in cases of pre-emption, and yet without making that declaration, enjoy all the rights and privileges respecting property under the State Government, with adopted citizens.

Mr. SIBLEY. There is another duty which we impose upon those who have made their declaration to become citizens, which the gentleman has overlooked. By our military organization, these foreigners are required to bear arms and perform military service.

Mr. M. E. AMES. And are allowed corresponding additional rights and privileges.

Mr. GORMAN. I want our friends to bear in mind this distinction, for it is an important one: This is in no sense a political question. The subject of political rights we are all agreed upon. It is simply a question affecting the rights of foreigners to hold real estate property, and leave it to their children or heirs.

The honorable gentleman from Washington, (Mr. SETZER,) has an amendment respecting the subject of inheritance, which, under the

circumstances, I think it would be well to adopt. The question suggested by the gentleman from Dakota, (Mr. SIBLEY,) is one of importance. This is a Government founded for the protection and benefit of the people. When a foreigner takes the oath of intention, we can then compel him to bear arms, to fight our battles for us, and to do divers other things which we cannot impose upon a resident who has not taken that oath.

Let me make one other suggestion, and I will close. Supposing the Legislature should provide that every free white inhabitant above the age of twenty-one years, who shall have resided in the State for twelve months, shall have the right to vote. The State has the right to say who shall be the voters—and suppose that provision should be made, for such a thing would be very possible in the political chances—you might have seven or eight thousand Mormons coming here to vote, or Scotch Covenanters if you please, who refuse to take the oath of allegiance, as a body of seven or eight hundred of them did in my county in Indiana, under an express prohibition of their Church, on the ground that the United States had made a covenant with Death, in tolerating Slavery. Why, sir, I should have been beaten seven years in succession for the Legislature, if this body of men had been allowed to vote. But I will tell you what they did there and what they will do here if you allow them. They will come here in large numbers. They will colonize in your State, and they will spend more money and more time in the cause of Abolitionism and no more union with Slaveholders, than you could well imagine. They will preach in their pulpits and they will talk on the streets, by night and by day, and in every prayer they make they will call down God's denunciation upon the whole Catholic Church. This is the last Amen to their prayers. I confess I have a prejudice against them. They are all Know-Nothings, every man of them. Yes, sir, that portion of our foreign-born population are the rankest Know-Nothings that the Lord Almighty ever permitted to live upon this earth. They do not love your country nor your institutions. It may be prejudiee, but that is my opinion of them.

Now sir, when I have said that I am in favor of giving all foreigners who will identify themselves with us equal privileges with ourselves, I have said all I am going to say. But when foreigners ask me to give them more rights than our native-born citizens, I will not do it. Upon the last point, I have a little prejudice, I am free to confess it. But I will not detain the Committee.

Mr. MURRAY. I should like to ask my colleague a question. I should like to know whether he is for or against the proposed amendment?

Mr. GORMAN. I acknowledge to my colleague, upon my word and honor, that I do not know what the amendment is. I did not know there was one pending. (Great laughter.) I am against this Section as it reads, and it is upon the Section that I have been speaking.

Mr. MURRAY. I hope the amendment will be read.

The amendment was read.

Mr. GORMAN. If compelled to choose between two evils, I should choose the amendment. If the Section is to be retained, then I am for the amendment.

Mr. BROWN. I am opposed to the amendment. I hope the gentleman will understand that before I commence, and I am opposed to the whole Section. I think the Section is sufficiently objectionable as it stands, but would be more so with that amendment. By a clause in the Constitution we acknowledge the right of the General Government to the primary disposal of the soil. By a law of Congress, every person of foreign birth who has declared his intention to become a citizen, has the right to purchase the soil of the Government under the pre-emption law, and he has the right to purchase land subject to private entry at a dollar and a quarter an acre, whether he has filed his declaration or not. Now, in my judgment, the simple question before this Convention connected with this Section, is whether we shall make a distinction between our foreign and native born citizens. It is not whether we are going to allow capitalists from Europe to come here and purchase lands. It is not whether we shall allow a foreign prince or millionaire to come here and purchase up large tracts of land which we want to leave in the hands of actual settlers. That is not the question in controversy, though such has been stated to be the fact. It is simply a question whether we shall make a distinction in the Bill of Rights forming a portion of this Constitution, between our native and foreign-born citizens of this State?

Now, it is well known that unless prohibited, foreigners can possess and enjoy, and devise by will, real estate in this State. If we do not prohibit it, then we say they shall have it, for we have said in the second Section of this Declaration of Rights that:

No member of this State shall be disfranchised, or deprived of any of the rights or privileges, secured to any citizen thereof, unless by the law of the land, or the judgment of his peers.

The term "citizen" I presume may apply to voters. But if we have said in another section that all citizens of the United States shall be upon the same basis, what is the necessity for repeating it here? As I have said, I am opposed to the amendment and opposed to the whole Section. Its adoption would be very much like

saying in the Bill of Rights that every foreigner might eat his dinner at 12 o'clock. Sir, do not foreigners already possess these rights which you propose to bestow upon them in this Section? Do not they already possess the right of possession and enjoyment and inheritance of property? And if they did not, has it not already been conferred upon them in a Section already passed? Then why, I repeat, is it necessary to adopt this Section unless it is intended to make a distinction between foreign and native-born citizens. I say that is the question, and the only question really before the Convention.

Mr. SHERBURNE. I have but a single remark in reply to the gentleman from Sibley, (Mr. BROWN.) The question is not one of distinction between native and foreign-born citizens, but it is a question as to who shall be allowed to hold real estate. I am in favor of no distinction between citizens. But, sir, we impose certain obligations upon those who are citizens. They form our domestic police. They are liable to be called out to perform military duty, and in return we allow them to hold real estate. There is no distinction among citizens, but I am opposed to allowing foreigners the privileges of citizens if they are not required to perform the obligations of citizens.

Mr. BAKER. Shall we prohibit the property of a foreigner from going to his heirs?

Mr. SHERBURNE. I have made no such remark. I believe the gentleman from Dakota did say something of that kind, but it did not come from me, and is not in accordance with my opinions.

Mr. SIBLEY. May I ask what the remark of the gentleman from Dakota was?

Mr. SHERBURNE. I understood the gentleman—and I really hope I did not understand him correctly—to say that foreigners purchasing lands of the General Government, if they had not declared their intention to become citizens, ought not to be allowed to transmit their property to their heirs. My own opinion is, that there should be no difference in the descent of property rightfully obtained, between foreigners and citizens.

Mr. SIBLEY. I wish not to be misunderstood in this matter. I merely stated the general proposition, that the State had the right to regulate the Law of Descent, but I said nothing in reference to what that law should be. I did not go into particulars, because whenever a law is framed upon this subject it should be very precise in its details, so as not to do injustice to any class of individuals.

Mr. NASH moved to amend the amendment by adding the following thereto:

PROVIDED, however, that nothing in this section shall be so construed as to invalidate the descent of property in possession of any actual settler of this State, at the time of his death.

The amendment to the amendment was not agreed to.

Mr. EMMETT. I am so unfortunate in respect to a seat, that I seldom succeed in being recognized by the CHAIRMAN, until nearly every one else has spoken, and I am therefore compelled, when I do obtain the floor, to detain the Convention at inopportune moments.

Mr. CHAIRMAN, I have listened in the hope that something would be said by some one, showing some reason for the adoption of either the original section or the amendment, but I have listened in vain. I had intended, if I could have obtained the floor earlier in the session, to have spoken somewhat at length upon this question, but I will not now detain the Committee for but a moment. It seems to me that the whole matter connected with this section is one with which we have no right to interfere at all. I shall, therefore, vote both against the section and the amendment. I said yesterday that I was in favor of the section without the amendment, but I had not then weighed it carefully. It reads,

Foreigners who are, or who may hereafter become *bona fide* residents of this State, shall enjoy the same rights in respect to the possession, enjoyment and inheritance of property, as natural-born citizens.

I did not notice at that time, the words, "*bona fide* residents of this State." If there is to be a distinction made at all, it should be in favor of the amendment, because when a man comes amongst us, and refuses to take the oath of allegiance—refuses to make the declaration of his intention to become a citizen, I am afraid of that man. I say that if any class of foreigners are to be excluded from the right to hold property, it should be those who come to reside amongst us, and who have not love enough for our institutions to take the initiative steps for becoming citizens.

But I take the ground that we have no right to exclude aliens from the right to hold real estate at all. No new State, to my knowledge, has ever constitutionally done it. Why, sir, how does such a provision look in here? We, in the first instance, pass a law accepting the proposition of the Enabling Act, that we will never interfere with the primary disposal of the soil. Sir, with this provision before us, gentlemen can hardly be serious in the propositions which are now under consideration. If you undertake to prevent the descent of property belonging to a certain class of persons who have purchased their property of the Government, do you not interfere with the primary disposal of the soil? Certainly you do.

The question has been very well stated by my colleague, (Mr. GORMAN,) only he did not go far enough, by saying that it resolved itself into merely a question of inheritance. He has told you what is the law with regard to personal property. My recollection of the law with regard to real estate is, that it follows the law of the State or Territory in which it is located. Now, we can pass a general law of inheritance, prescribing what shall be the law of descent in Minnesota, but it must be a general law applicable to all. If an alien holds property by virtue of the laws of the United States, secured to him by our contract with the United States, when we accept the provisions they tender to us, his heirs have the same right as the heirs of citizens of this country. We have no right to interfere to make any distinction in the application of the laws to aliens and to citizens, because any such distinction would be a violation of our contract, not to interfere with the primary disposal of the soil. We cannot make any law requiring special rules to be applied to aliens, without doing great injustice, or without a violation of solemn obligations, entered into with the United States.

It is true that non-resident land-holders are the bane of our Territory, but does it make any difference, whether the man who owns the quarter section opposite your farm, and reaps the benefits of your improvements, resides in England or New York? Not a whit. You cannot make a distinction. The evil you complain of, applies as well to the non-resident who lives in the United States, as one who lives in a foreign country. I consider that the United States laws and the Enabling Act, cover the whole ground, and that we should be doing a very foolish thing to place in this Constitution any such provision as is contained in this section, even as it is proposed to amend it.

Now, sir, gentlemen talk about extending privileges to aliens, in distinction from those who are residents, and the gentleman from Ramsey, (Mr. GORMAN,) spoke of imposing the obligations of naturalization as if it were a hardship which foreign-born citizens were compelled to endure. Sir, I very much mistake my fellow citizens of foreign birth, if they do not deem it a privilege to take the oath of allegiance to the United States. Do they take such an oath because they are required to do it? Do they not seek it? I say again, that it should never be spoken of, and never can be truly spoken of, as an obligation imposed upon them. It is a privilege extended to them, and so they regard it. I do not understand what gentlemen mean when they talk about extending privileges to aliens, in respect to the enjoyment and inheritance of property.

It is already their right, and when you seek to deprive them and their heirs of their property, and make it escheat to the State, you seek to deprive them of their right. They ask you to extend no privileges to them. The question is, how can you strip them of their property and their heirs of it, when they die? That is the only question before this Committee.

An alien comes here with barely money enough to carry him across the ocean: he takes up a quarter-section of land under the Pre-emption Law—he labors hard to pay for it, to provide a home for his wife and children: he dies of the hardships he has undergone for their benefit;—and I ask if any man in this Convention would deprive that wife and children of the property which has been thus acquired? Yet this is the protection which gentlemen propose to extend to the aliens who come amongst us. If they die before they have taken the necessary steps towards becoming citizens their property escheats to the State, and their families are left penniless. Sir, there are hundreds, and, I dare say, thousands of foreigners situated just in this way; and it would be, instead of a protection, the grossest injustice to them to establish any such principle as gentlemen have advocated on this floor today. But, we are told that our foreign-born citizens desire it. I am sorry to hear it. I do not think there is any necessity for their manifesting their devotion to our Government and institutions by any such sacrifice. We do not ask any such proofs of their devotion. They are citizens amongst us, and they should not wish to apply any harder rule to their children and relatives whom they leave behind than is applied to those who have come with them. There is neither justice nor common sense in it; and I hope no such provision will be incorporated into this Constitution.

Mr. SIBLEY. At the risk of being considered unnecessarily tenacious in this matter, I, for one, do not choose to listen to the imputations which have been cast upon those who hold the same views with myself: as if there were some portion of this Convention who were sitting here with a fixed purpose of devising some plan by which the relations of aliens who may choose to come to this country may be despoiled of their possessions. Now, sir, I for one do not choose to listen to any such language in silence, coming from any quarter in this Hall. I say that no gentleman has the right to cast any such imputations upon the motives of any portion of this body. A portion of the members of this Convention have taken the position that a distinction should be made between foreign-born residents who have taken the oath of allegiance and those who have not. But, while we have felt it our duty to take this position, we have

at the same time, expressed our wish not to do injustice to any one. But, sir, the gentleman from Ramsey (Mr. EMMETT) rises in his place, and seems to think he monopolizes all the common sense in this Convention.

Mr. EMMETT. The gentleman does me injustice, as well as himself. I charged no such views or motives as the gentleman imputes to me. I merely said the effect of the position taken by the gentleman would be such as I described. I made no imputation against the gentleman's motives.

Mr. SIBLEY. I certainly did not intend to misrepresent the gentleman, and I am glad he corrected me; but I also understood him to say there was neither justice or common sense in the proposition before this Convention. Now, sir, I do not want to prolong this discussion, but I do not choose to be misrepresented before this Convention and the country. This is a proposition which has been adopted into the Constitutions of many of the States, and has been considered by the statesmen there who have advocated it as containing both justice and common sense. I say, again, that I would be the last man on this floor to do injustice to any portion of the people who may reside in Minnesota. But, sir, I have maintained, and I now urge upon this Convention, that the distinction which is made in this amendment is one which justice to our foreign born citizens requires. It is a distinction which is due as a matter of justice to those who have taken the oath of allegiance to our country and its institutions; and when the gentleman imputes a want of common sense in the arguments of those who have advocated this position, I think he is discourteous towards us.

Mr. EMMETT. I will say that in the use of the words "common "sense" I certainly meant no discourtesy to the gentleman from Dakota, or to any gentleman upon this floor. I merely drew my own conclusions, as I have the right to do, without being discourteous to any one.

Mr. SIBLEY. I am glad the gentleman has disclaimed any discourtesy, for I certainly understood him to use the language I have quoted.

Mr. EMMETT. I believe I said there was neither reason nor common sense in the proposition. I meant no discourtesy, and if the gentleman takes exceptions to the language I will withdraw it.

Mr. MURRAY. I move the Committee rise, report progress, and ask leave to sit again.

The motion was disagreed to.

Mr. GORMAN. I must ask the indulgence of the Committee for

two or three minutes. I understood my friend from Ramsey who has just spoken, to say that he was for the amendment.

Mr. EMMETT. I said, if there must be any distinction made I was for the amendment.

Mr. GORMAN. Now, Mr. CHAIRMAN, I want gentlemen in this Hall to hear what I am about to say: for I do it for a particular reason, which I cannot tell just here. I say then, first, that the foreigner has the right under international law to come here and to become possessed of property personal and real when the title is acquired from the United States, and of personal property which is acquired of individuals. He has the right, secondly, to sue and be sued, the same as a citizen. He enjoys these rights independent of any rule which we can establish. All we can do is, to make some rule relative to inheritance.

Mr. SIBLEY. I ask the gentleman if the Section may not go further, and prohibit the transfer of property during the natural life of the owner?

Mr. MURRAY. If I understand it, foreigners may purchase property here under Statute law. That right is not acquired under international law.

Mr. GORMAN. He has the right by laws with which this State cannot interfere. He already possesses every right which this Section confers, except, perhaps, in reference to inheritance. That is regulated by our own Statutes.

Mr. MURRAY. If the gentleman will permit me, I will just state the reasons which induced the Committee which had charge of this subject to insert the provision into this Article. They thought the time might possibly come in the future when the Know Nothings might have control over the Legislature, and it was thought wise to have a provision contained in the Constitution which should protect our foreign born residents in their property.

Mr. EMMETT. It is protected by international law, and by our contract with the general Government.

Mr. MURRAY. I believe each State has the right to make its own laws regulating property within that State.

Mr. GORMAN. This is the law of nations on that subject. I read again from VATELL:

> Since a foreigner still continues to be a citizen of his own country and a member of his own nation, the property he leaves at his death in a foreign country, ought naturally to devolve to those who are his heirs, according to the laws of the State of which he is a member. But, notwithstanding this general rule, his immovable effects are to be disposed of according to the laws of the country where they are stiuated.

That is unquestionably the law, and now it is for us to deter-

mine in our own minds whether we have the power in this Convention to make any regulations on the subject. It is for us to consider whether the Constitution and laws of the United States do not regulate the whole question. So far as the purchase of property from private individuals is concerned, that is another question. But what restrictions can we place upon the right to hold immovable property? I think it is a question which we may very well leave for the Legislature to provide for. I do not think it had better be decided by this body. I move that the Committee rise, report progress, and ask leave to sit again.

The motion was not agreed to.

Mr. MURRAY. I move that the Committee rise and report back the Article to the Committee without amendment.

The motion was disagreed to.

The question was taken upon Mr. SWAN'S amendment, and it was decided in the negative.

Mr. McGRORTY offered the following substitute for Section 12:

SEC. 12. Foreigners who have, or who may hereafter, declare their intentions to become citizens of the United States in conformity with the naturalization laws of the United States, and every such person residing in this State, or who may hereafter come into it while a minor, shall enjoy the same rights in respect to the possession, enjoyment and inheritance of property as native born citizens.

Mr. SETZER offered the following amendment to the substitute:

Sec. 12. The laws of descent and inheritance in this State shall not apply to the real estate held by aliens, who shall not have declared their intention to become citizens of the United States, but all such real estate shall escheat to the State.

The amendment to the amendment was not agreed to.

Mr. STACEY moved that the Committee rise, report progress, and ask leave to sit again.

The motion was disagreed to.

Mr. BROWN. I do not believe the amendment is in order, but as it is in order upon the same principle on which the last amendment was received, I move the following as an amendment to the substitute:

"All *bona fide* residents of this State shall enjoy the same and equal rights in respect to the possession, enjoyment, inheritance, transfer and descent of property in this State."

The amendment to the amendment was disagreed to.

The question recurring on Mr. McGRORTY'S substitute, it was rejected.

Mr. BAASEN offered the following substitute for Sec. 12:

SEC. 12. Aliens shall enjoy in this State the same rights in respect to the possession, enjoyment and inheritance of property as native born citizens.

Which substitute was not adopted.

Mr. A. E. AMES moved the following as a substitute for Section 12:

No hereditary emoluments, privileges or honors shall ever be granted or conferred in this State.

Mr. MEEKER. As I believe the Constitution of the United States has not been repealed by this Committee, I shall vote against the amendment as unnecessary.

Mr. GORMAN. I would suggest that the amendment may be found in the Constitution of the State of Ohio.

Mr. A. E. AMES. The amendment is not exactly relevant to the Section under consideration, but as in my opinion it ought to be embodied in the Constitution somewhere, and as I am opposed *in toto* to the Section as it stands, I hope the amendment will be inserted in its place.

The amendment was disagreed to.

Mr. FLANDRAU moved to substitute the following for Section 12:

SEC. 12. No alien who shall not have declared his intentions to become a citizen of the United States, according to the naturalization laws, shall be capable of holding the fee of any lands within this State by inheritance.

Mr. BECKER moved that the Committee rise, report progress, and ask leave to sit again.

The motion was disagreed to.

Mr. FLANDRAU. It seems to be the desire of the Convention on all sides, that aliens who reside abroad or aliens who reside here, but who have not declared their intention to reside in the country permanently, or to become citizens of the United States, should not have the right of holding the fee of real estate in our State.

Mr. MURRAY. The gentleman from Nicollet may have mistaken the inheritance for purchase of lands, in his amendment.

Mr. FLANDRAU. No, sir, I have made no such mistake. If foreigners choose to come here and purchase lands of the general Government, we cannot prevent them. But if it is desirable to prevent them from holding land in the States, the only way in which we can reach the object, is to prevent them from holding it by inheritance. We cannot prevent them from purchasing it and holding it during their natural lives, without interfering with the contract which we make with the general Government not to infere with the primary disposal of the soil.

Mr. EMMETT. Is it not an interference with the primary disposal of the soil to prevent the title from descending by inheritance?

Mr. FLANDRAU. I think not. They may purchase as much land as they please from the Government. We cannot prevent that. They may purchase and enjoy property among us the same as if they were citizens, during their lives, but if they fail to dispose of it during their lives, let it escheat for the benefit of the State.

Mr. EMMETT. Thus the patent given by the Government only extends for a certain number of years.

Mr. FLANDRAU. No, sir, the foreigner may purchase the absolute fee of the land. He may dispose of it in any manner and to any person he may see proper during his life, and he may transmit it to his posterity for all future time, or to his heirs, if they are residents and citizens of this country, but the amendment is to prevent land from descending through a succession of generations of aliens. Now, sir, I say that this amendment will accomplish all that we can accomplish in this matter. It is the wish of our native born citizens and foreign born citizens that the lands within the State should be in the possession of persons who reside amongst us and who are identical with us; and I know of no means by which that object can be more effectually accomplished, than by the adoption of such a provision as this.

Mr. MEEKER. The effect of the amendment, if it could be carried out, would be to make the fee to property a mere life estate. It would be to narrow down what purports, to be the absolute grant of land by the Government to a mere life estate. Does any man suppose we can do that? Does any man suppose that when the general Government gives the fee of land to an individual, that it will not protect him in his right to dispose of it in his life time, and to transmit it to his children and to his children's children to the third and fourth generation? The proposition contained in the amendment is simply impracticable.

Mr. CURTIS. As far as the effect of the substitute is concerned, it is simply a motion to strike out the word "heirs" in the patent which is given by the United States Government to aliens.

The substitute was not agreed to.

Mr. BROWN moved that the Section as reported by the Committee, be stricken out.

The motion was agreed to.

On motion of Mr. EMMETT, the Committee here rose, reported progress, and asked leave to sit again.

Leave was granted.

ENGROSSED ARTICLES.

Mr. AMES, from the Committee on Enrollment, made the following report:

Your Committee on Enrollment report, as correctly Engrossed, the following named Articles, to wit:

Distributing of the Powers of Government.

On the Militia.

Corporations having no Banking Privileges.

A. E. AMES,
J. H. SWAN,
C. P. BUTLER,
} Committee.

On motion of Mr. BROWN, the Engrossed Articles were referred to the Committee on Revision and Phraseology.

On motion of Mr. KEEGAN, the Convention at one o'clock, adjourned until 2½ o'clock P. M.

AFTERNOON SESSION.

The Convention met at half past 2 o'clock.

The PRESIDENT appointed Messrs. KENNEDY, TUTTLE and STURGIS as the Auditing Committee authorized under the resolution of yesterday.

BILL OF RIGHTS.

On motion of Mr. STACEY, the Convention resolved itself into Committee of the Whole, Mr. HOLCOMBE in the Chair, and resumed the consideration of the report of the Committee on the Bill of Rights.

Mr. SWAN moved to strike out all after the word "peace" in the following Section:

15th. No person shall be imprisoned for debt, in any civil action on mesne or final process, unless in case of fraud, and no person shall be imprisoned for a militia fine in time of peace. A reasonable amount of property shall be exempt from seizure or sale, for the payment of any debt or liability incurred, and the amount of such exemption shall be determined by law.

The amendment was not agreed to.

Mr. GORMAN. I move to amend the same Section by inserting after the word "fraud" the words "of which he shall have been duly convicted."

Mr. MEEKER. I would enquire whether that would not imply a criminal prosecution?

Mr. GORMAN. If a man is to be imprisoned for fraud, it ought to be on a criminal prosecution. I think the amendment is an im-

portant one. I do not want any provision to remain in this Constitution under which a man who bears ill will towards another, merely by charging him with fraud, of which he may be innocent, to have him arrested and imprisoned. If we are to imprison men for fraud, it should not be done, in this enlightened age, until the party shall have been found guilty.

Mr. MEEKER. I hope the motion will not prevail. I think a man ought to be imprisoned for contracting debt by means of fraud as the man who takes my property by theft or robbery. I know of no distinction which should be made.

Mr. BROWN. I ask the gentleman whether he would allow a man to be hung for murder before he had been convicted?

Mr. MEEKER. Conviction, I believe, generally precedes hanging. But this has no reference to any criminal proceedings. The Section reads:

> No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in case of fraud.

Now, sir, there is hardly a State in the Union which has not laws against embezzlement, against defrauding the public Treasury, and against obtaining money under false pretences, or contracting debts under false pretences. Where there is a *prima facie* case of fraud made out, it is the duty of the prosecuting officers to proceed at once against the offender. Now, I am unwilling to have the Legislature of Minnesota trammelled in its efforts to suppress fraud, by any such Constitutional provision as the gentleman from Ramsey proposes to insert, and I hope the amendment will not prevail.

Mr. STACEY. If it would be in order, I should like to offer a substitute for the amendment, by striking out the words, "unless "in case of fraud."

Mr. GORMAN. I do not believe the Convention will put in that word. If you are going to abolish imprisonment for debt, do it, and do not "whip the devil round the stump." The question has been discussed a thousand times over, and I do not wish to detain the Convention with it. The Section punishes a man before conviction.

Mr. MEEKER. I would inquire, whether the words, "final pro-"cess," do not imply conviction.

Mr. GORMAN. No sir, they do not. You can give it no such construction. Fraud must be made a misdemeanor before the party can be imprisoned for its commission. But here you propose to put a man in Jail in the first place, and then try him afterwards. In most of our Western States, a regular jury trial is provided for

cases of fraud. Has he fraudulenly concealed his property? Has he committed a fraud upon his creditors by withholding the truth, by the suggestion of falsehood; or has he committed a fraud by misrepresenting the value of his property, and his ability to pay. If he has, and you can convict him of it, he may be imprisoned after conviction has taken place.

But the language of this Section is, that he "shall not be im-"prisoned on mesne or final process." The final process against a man sued for debt is after the trial, and the judgment only extends to the levy and sale of his property, unless the laws of the State allow his body to answer the debt. Now, if you are going to allow his body to answer the debt upon any process, by putting him in prison, then say so, and do not have it in the power of the Legislature to give that construction when that is not your professed object: If you wish to make cases of fraud an exception, then provide that he may be imprisoned for fraud upon due conviction, and do not leave the courts the power to imprison a man upon a mere preliminary or *ex parte* hearing, or perhaps upon a mere *ex parte* affidavit of a person actuated by caprice or ill will, to put a man in Jail. A mere prejudice perhaps, growing out of a thousand things, may induce a man without conscience, to imprison one of our fellow citizens whose only crime is poverty. Sir, I say again that if you are going to establish the right of imprisonment for debt, say so, and your Constitution may "bid farewell to every "fear, and wipe its weeping eyes," before the people.

Mr. BROWN. The gentleman seems to think there is some person here present, who is in favor of imprisonment for debt.

Mr. GORMAN. How happened you to think that?

Mr. BROWN. I could not come to any other conclusion from the gentleman's remarks: I merely want to say that I don't think there is any member of this Convention who would for a moment, sanction any such proposition. The only question is whether a man shall be imprisoned for fraudulent transactions.

Mr. MEEKER. I am as much opposed to imprisonment for debt, as the gentleman from Saint Paul, (Mr. GORMAN). I look upon it as a relic of barbarism which should not be tolerated in this enlightened age. But sir, there is an offence against good morals and common right, which is greater in my judgment, than the mere commission of violence. A man who has committed a fraud upon his fellow man, ought in my opinion to be arrested as soon as the fraud is discovered, and held *vi et armis* until satisfaction is rendered. I am in favor of the Section just as it stands. I do not want to encourage rogues to come here, and if they should happen

to grow up spontaneously upon our own soil, I want the means to get at them. I do not want to allow a man to escape from his liabilities, by saying, "I have nothing," when his pockets are distended with your means or mine.

Mr. EMMETT. I ask the mover of the amendment, how he expects to convict a man of fraud?

Mr. GORMAN. Upon trial.

Mr. EMMETT. I am opposed to this amendment for several reasons which occur to my mind. I am as much opposed to imprisonment for debt as any man on this floor. I think it is a barbarous custom, handed down from the dark ages. But I think we should provide effectual means for the punishment of fraud. We ought to be able to hold in prison, the defendant who we have reason to believe intends to escape from justice. Every one who has had any experience in the practice of the law in this Territory, knows the difficulties under which we labor from our own laws as they now exist.

But my collegue, (Mr. GORMAN,) says, that under this Section a man may be arrested and imprisoned before he has been tried. I can only say in reply, that he would be placed in the same situation with any other man charged with crime. He may obtain security and be released on bail. There is a hardship in imprisoning any man charged with crime before he is convicted, but there is a necessity for it, and so there is in this case. If a party is charged with fraud in contracting a debt, there is no more hardship in requiring him, if he cannot get security, to be imprisoned, than if he had committed a crime. I hold that any man who will commit fraud in contracting or evading a debt, ought to answer for it with imprisonment. I know no difference between being defrauded of a thousand dollars, and being robbed of the same amount.

The amendment was disagreed to.

Mr. KINGSBURY moved to amend by striking out the first clause of the Section, and inserting in lieu thereof:

No person shall be imprisoned for debt in this State.

The amendment was agreed to.

Mr. WAIT moved to amend the 15th Section, by striking it out.

Mr. BAKER. I have a little personal interest in that. I do not want a sentence passed upon me before I am tried. [Laughter.]

Mr. MEEKER. I hope the gentleman will be heard before he is executed. [Renewed Laugter.]

The amendment was disagreed to.

Mr. SWAN moved to amend Section 15, by adding thereto the following:

"Provided this shall not prevent the seizure of property for the purchase money thereof."

Mr. FLANDRAU. If we desire that there shall always be an exemption in favor of the sovereign people, it is certainly proper that something more specific should be put in the Constitution, than this amendment would provide for. If we require that a reasonable amount of property shall be exempt from seizure for debt, we should make provision for the Legislature to carry out the purpose. I think the debts for the purchase of such necessary articles as the Legislature may exempt from seizure, should not be made exceptions to other debts mentioned in this provision.

The amendment was disagreed to.

Mr. EMMETT. I move to amend the Section further by inserting after the word "State," in the first clause, the words, "unless in case of fraud," so that the clause would read:

No person shall be imprisoned for debt in this State, unless in case of fraud.

Mr. GORMAN. These words have just been stricken out. I suppose the amendment is not in order.

The CHAIRMAN. They were stricken out in connection with others. The amendment is in order.

The amendment was agreed to.

Mr. EMMET moved to amend Section 16, by adding thereto the words, "first paid or secured."

The Section as amended would read:

Private property shall not be taken for public use without just compensation therefor first paid or secured.

The amendment was agreed to.

Mr. BAASEN moved to amend by striking out, "fifteen," and inserting "twenty-one," in the following Section:

18th. All lands, within this State are declared to be allodial and feudal tenures of every description, with all their incidents are prohibited. Leases and grants of agricultural land, for a longer period than fifteen years, hereafter made, in which shall be reserved any rent or service of any kind, shall be void.

Mr. FLANDRAU. I move to amend the amendment by inserting "thirty-two." This restriction of leases of agricultural lands, I think is detrimental to the agricultural development of the country, if confined to too short a period. In the State of New York it was confined to 12 years, and leases were found to be wholly worth less for that time. The lessee would not consider it worth his while to make the necessary improvements on the land for that length of time. The old custom of granting leases for ninety-nine years, was a bad one. They should be limited, but I think they should be limited to the average lifetime of a generation.

Mr. BROWN. I think the section is exactly right as it stands. By reading it, gentlemen will see that the restriction is in cases where service is reserved. Where there is no service reserved, you may make the lease as long as you choose.

Mr. FLANDRAU. The idea of making the restriction at all, is to get rid of these interminable leases of ninety-nine years or nine hundred and ninety-nine years, where the party cannot get a title for several generations, and the lesee is compelled to pay rent from generation to generation. But if you restrict it to fifteen or twenty-one years, you make it of so short a duration that the party will not make improvements on the land, and it is consequently disadvantageous to the agricultural interests of the country.

The amendment to the amendment was not agreed to.

The amendment was agreed to.

Mr. SWAN moved to strike out the latter clause of the section.

The amendment was not agreed to.

Mr. BAKER moved to amend the following section :

19th. All lands within this State, the title to which shall fail from defect of heirs shall revert or escheat to the people.

By adding thereto, "for the use of the University of Minnesota."

Mr. A. E. AMES moved to amend the amendment by inserting "for the use of the Public Schools."

Mr. BECKER. I would suggest to the gentleman that it should read "escheat to the State for the use of the public Schools."

Mr. A. E. AMES. I will modify the amendment as the gentleman suggests.

The amendment to the amendment was agreed to, and the amendment as amended adopted.

Mr. A. E. AMES moved to insert the following as an additional section :

SEC. 20. No hereditary emoluments, honors, or privileges, shall ever be granted or conferred by this State.

The amendment was not adopted.

Mr. A. E. AMES moved to insert the following as an additional section :

SEC. 21. Any citizen of this State who may hereafter be engaged, either directly or indirectly in a duel, either as principal or accessory before the fact, shall forever be disqualified from holding any office under the Constitution and laws of this State.

Mr. BECKER. I would suggest that the gentleman add after the word "duel," assault and battery or fist fight. [Laughter.]

The motion was not adopted.

Mr. MURRAY moved the following as an additional section :

SEC. No distinction shall ever be made by law between resident aliens and citizens, in reference to the enjoyment or descent of property.

The amendment was not agreed to.

Mr. McGRORTY offered the following as an additional section:

SEC. No alien shall have the right to hold or transfer property until he has first declared his intentions to become a citizen of the Uuited States, agreeably to the laws on the subject of naturalization.

Mr. SIBLEY moved to amend the section by adding after the word "naturalization" the words "except so far as such right is "guaranteed to him by the Constitution and laws of the United "States."

The amendment to the amendment was not agreed to.

The amendment was then rejected.

Mr. M. E. AMES offered the following additional section, to be called section twelve:

SEC. 12. All actually residents of this State shall, at all times, have and enjoy equal and uniform rights in respect to the possession, inheritance and descent of real property.

Mr. McGRORTY moved to amend the section by striking out the word "resident" and insert "citizen" in lieu thereof.

Which motion did not prevail.

Mr. M. E. AMES' amendment was not adopted.

Mr. CURTIS moved to insert the following as an additional section.

SEC. All persons resident within this State shall enjoy equal rights in reference to the descent of property.

Which motion did not prevail.

On motion of Mr. M. E. AMES, the Committee rose, reported back the article to the Convention with amendments, and asked concurrence of the Convention in the report and amendments.

The amendment to the Preamble was then concurred in.

The question now being on adopting the substitute for section three, and the yeas and nays being called for and ordered, there were yeas 38, nays none.

Yeas—Messrs. A. E. Ames, M. E. Ames, Butler, Becker, Baker, Barrett, Burns, Burwell, Bailly, Brown, Baasen, Curtis, Chase, Day, Emmett, Faber, Flandrau, Gilbert, Gorman, Holcombe, Kingsbury, Kennedy, Lashelle, Murray, McGrorty, McMahan, Norris, Nash, Prince, Sanderson, Sherburne, Stacey, Streeter, Swan, Taylor, Tuttle, Wait, and Mr. President.

So the substitute was adopted.

The amendment to section seven was then concurred in.

The question recurring on striking out section twelve, on motion of Mr. GORMAN, the previous question was ordered, whereupon the recommendation to strike out section twelve was concurred in.

The question next being on concurring in the amendment to section fifteen, Mr. GORMAN moved to insert after the word "frauds" in said amendment, the words "of which he shall have been duly convicted."

And the yeas and nays being called for and ordered, there were yeas 21, nays 16.

So the amendment was adopted.

Mr. EMMETT. I move further to amend by inserting after the word "debt" the words "or crime."

If a man cannot be imprisoned for fraud until after he shall have been convicted, I see no reason why he should be imprisoned for crime until after he shall have been convicted.

Mr. GORMAN. I move the previous question on the amendment.

The previous question was ordered.

The amendment was not agreed to.

On motion of Mr. BECKER, a call of the Convention was ordered.

On motion of Mr. GORMAN, further proceedings under the call were dispensed with.

On motion of Mr. GORMAN, the report of the Committee was laid on the table until to-morrow.

REPORTS ORDERED TO BE PRINTED.

Mr. BUTLER offerred the following resolution:

RESOLVED, That the Secretary order 100 copies of the reports of the various Committees, as amended and adopted by the Convention up to this date, printed for the use of the Convention.

Which resolution was adopted.

Mr. KINGSBURY moved that the Convention resolve itself into Committee of the Whole upon the report of the Committee on Amendments to the Constitution.

Pending which, on motion of Mr. BROWN, at ten minutes before 5 o'clock the Convention adjourned.

TWENTY-THIRD DAY.

SATURDAY, August 8, 1857.

The Convention met at 9 o'clock, A. M.

Prayer by the Chaplain.

The Journal of yesterday was read, corrected and approved.

LIMITATATION OF DEBATE IN COMMITTEE.

Mr. WAIT offered the following resolution, which was considsidered and adopted.

RESOLVED, That hereafter no member in Committee of the Whole shall speak more than once on the same subject, nor longer than ten minutes at one time.

COMMITTEF ON COMPROMISE.

Mr. SHERBURNE offered the following preamble and resolution:

WHEREAS, The persons who were elected by the people of this Territory to represent them in a Constitutional Convention, having met at this Capitol on the day appointed by law for such meeting, and having disagreed upon some immaterial questions which arose in the course of forming a temporary organization, separated and formed two distinct conventions, in numbers nearly equal, and are now forming two separate and distinct Constitutions, to be presented to the people; and,

WHEREAS, Proceedings so extraordinary in their character will have a tendency to injure the reputation of our people—to lessen the confidence of the other States in our integrity, stability and position, and place us in a false position before the world: therefore,

RESOLVED, That a Committee of five be appointed by the President of this Convention to confer with a Committee of an equal number (if appointed) of the duly elected members of that portion of them who are acting separately from us; and that it shall be the duty of such Committee to consider and agree upon, if practicable, and report some plan by which the two bodies can unite upon a single Constitution to be submitted to the people.

Mr. SHERBURNE. It is perhaps due to me and to this Convention to state that this resolution has been presented without consultation with any of its members, and that if it is wrong in principle or in practice, I alone am responsible for it. The situation which we now hold in both ends of the Capitol, and also the effect it is having upon the people of the Territory and the States, is, I suppose well understood by the members of this body. It is unfavorable to us, not as a party but as a State or Territory; and I think that it is extremely desirable for us, as far as we can, to take some measures to disabuse the public mind—not at home, where we know the facts, but in the States abroad, as to the real position we occupy. It is not true, Mr. PRESIDENT, that we are in a state of anarchy. It is not true that there is ill feeling or ill blood between the members of the respective Conventions: nothing but a feeling of kindness exists. Every one deprecates the position in which we find ourselves. Every man I meet in the street uses the same language. And this feeling is not confined to the Territory; men in the East who are doing business here—men who are interested in our welfare, and who have the means of knowing the public sentiment from day to day, tell us that the people misunderstand the

position in which we are placed, and that it is necessary, for the purpose of making ourselves understood, that we should adopt some measure by which we should show to the world that we are men and not children, and that we can meet together according to parliamentary usage. It is for this purpose that I have introduced the resolution. I have offered it in this body because I think we are right. I so stated in the outset, and I think the facts will show that we are legally *the Constitutional Convention.* We can therefore afford to be magnanimous—we can afford to extend the olive-branch —we can afford to take the initiative, by making some proposition to the body sitting in the other end of the Capitol, by which there shall be but one Constitution submitted to the people. If we can agree and come together like good citizens, all will be well; if we cannot agree, no injury will have been done.

Mr. SETZER. I move a call of the Convention. This is an important proposition, which should not be decided except in full convention.

The motion was agreed to, and a call of the Convention was ordered.

On motion of Mr. SANDERSON, Mr. NORRIS was excused for the day, having been suddenly called home.

Mr. BROWN moved that Mr. M. E. AMES be excused for the day, he having important business to attend to.

The motion was not agreed to.

On motion of Mr. GILMAN, Mr. LEONARD was excused for the day, Mr. L. having gone home.

Mr. CHASE moved that all further proceedings under the call be dispensed with.

The motion was agreed to.

Mr. CHASE moved that the resolution be laid on the table, and made the special order for Monday next.

Mr. KINGSBURY moved that the resolution be indefinitely postponed.

Mr. BROWN. This Resolution involves a very important subject—one which this Committee should not dispose of without mature deliberation. It is well known that the Democratic members of this body have taken the only means in their power legally to form a Constitution for the future State of Minnesota; but, as stated by the gentleman from Ramsey, it is also well known that the position occupied by the delegates legally elected to the Constitutional Convention is, to some extent, doing an injury to the people of the Territory. But, sir, a large number of the members are absent today, and this subject should not be disposed of finally until a full

house is present. I hope, therefore, the subject will be laid over until Monday, and that it will be considered maturely and deliberately.

Mr. SETZER. The very entertaining of the resolution before us, acknowledges the existence of another body in this Capitol which I, by my vote, shall never consent to recognize. Are we going to appoint a Committee to wait upon a meeting of citizens assembled in the other end of the Capitol? Are we going to acknowledge the existence of another Constitutional Convention? They know that this Convention has been open for weeks, and that if others were elected members of this Convention than are sitting with us, all they have to do is to come here, present their credentials, let them be referred to the Committee on Credentials, let that Committee report, and then let them take their seats as all of us have done. If they are not willing to do that, I say let them stay away. For my part, I am not going to invite them to come here and join us. We are the Constitutional Convention—we have acted from the first, in a parliamentary and orderly manner. They are revolutionists, and shall we invite them, as such, to come here and join us?—not if I can help it.

Mr. GILMAN. I think the resolution had, at least, better be amended. There are a large number of those sitting in the other end of the Capitol, who have no right to sit in any Constitutional Convention. I should dislike very much to have any resolution pass this body recognizing such men as legally elected members. But what need is there of any resolution on the subject being passed? Those men who are legally elected, have already been invited by the gentleman from Ramsey, (Mr. GORMAN,) in a speech, which was endorsed by every man in this body. I think they need no other invitation, and I am opposed to the resolution.

Mr. MEEKER. I am somewhat surprised at the resolution which has been offered by the gentleman from Ramsey. We have now been four weeks in the transaction of the business for which the people sent us here. We have been, as I supposed, and as all of us supposed, acting as the legally constituted Constitutional Convention of Minnesota. We were aware that there were other members legally elected to the same Convention, who have refused to come in and take seats with us—we were aware that this act of disorganization, of secession, of revolution, had been perpetrated and perpetrated by them—we were aware of all this, but in these acts of disorganization they have acted upon their responsibility. We have heralded these facts from one end of the country to the other—to the great national party with whom we act.

We have notified them of the facts which exist. They have heard us, and they are ready to sustain us.

Now, sir, if this proposition had been presented here in the form of a petition coming from these people outside, I should have been ready to have received it, to have referred it to some proper Committee, and to have given it a proper consideration ; but for it to have come from a member of this Constitutional Convention, and presented here in the form of a solemn resolution, I am opposed to it tetotally. I am heartily with my friend who moved to indefinitely postpone the subject. If these men are members of this Constitutional Convention, there is the door, open wide enough for them to enter. When they have presented their claims to seats duly certified, when those claims have been passed upon by the proper Committee, the Convention are ready to admit them, and for one, I am not, before.

Mr. A. E. AMES. I am not in favor of postponing this subject. I hardly think that is the most prudent course. Although I am not exactly satisfied with the wording of the resolution, with the principle I am satisfied. I hold as others hold, that this is the *Constitutional Convention*, and the only Constitutional Convention which is engaged in forming a Constitution for the future State of Minnesota ; but while I hold that, I also hold that it would be magnanimous on our part to do what we can to secure peace and harmony upon this subject. I shall therefore vote for the resolution with some amendment, but I think it would be better to postpone its further consideration until Monday, perhaps, and act with deliberation upon it. I believe with the gentleman from Sibley, (Mr. BROWN,) that this is an important subject and should not be hastily acted on. I should like to see it referred to a Committee of three or five, whose duty it should be to consider it and report it back to the Convention with such amendments as should seem expedient.

Mr. MEEKER. I wish to ask the gentleman whether he does not consider this body as the legally organized Constitutional Convention.

Mr. A. E. AMES. I have so stated.

Mr. MEEKER. Then I ask the gentleman whether he is willing to vote for sending a Committee to confer with a body of men who are outside this Convention, in reference to the great business which the people have sent us here to transact.

Mr. A. E. AMES. I will answer the gentleman that I am willing a Committee should be appointed to confer with men, who, I have no doubt, were legally elected by the people to represent them in the Constitutional Convention.

Mr. STREETER. For one, I am opposed to that resolution, and to every sentiment contained in it. I am not willing to place myself in a position before my constituents which that resolution proposes to place every member of this Convention.

I came here and met with the Democratic party of this Convention. I have followed them step by step, and have endorsed them in the course they have pursued in its organization. I believe that we are the only organized Convention. I believe we occupy that position in the opinion of a great majority of the people, and that we are unanimously sustained by the great Democratic party. Sir, on my return to my constituents in the Southern portion of the Territory, I was met with a unanimous voice of approval. They said, "You are right. All we ask of you is, that you will perse-"vere, and we will sustain you." Now, sir, in what position would we place ourselves by the passage of that resolution? Would it not be virtually acknowledging that we were in the wrong? Sir, I am in favor of not only indefinitely postponing this resolution, but of eternally postponing it. I cannot believe there are five men on this floor who will vote for such a resolution. The Republicans are perfectly aware that they can come in here and take their seats if they are duly elected. No one has ever denied them that right. But, sir, to crawfish to them—to retract the honorable position in which we have placed ourselves—and to come down and ask a body of men to unite with us whom we have never recognized as having a legal existence, I will never do. Sir, what are they? Have you termed them a Convention? You have not. You have termed them a camp-meeting; and now, I want to know if you will invite a camp-meeting to come in here and assist us in the formation of a Constitution? I hope the resolution will be indefinitely postponed.

Mr. WARNER. I am in favor of a reconciliation, if one can be accomplished upon fair terms. This is not any very serious matter; I am surprised that the gentleman should take it so hard. He is not going to lose his seat by the operation; neither is the gentleman from St. Anthony, (Mr. MEEKER.) I am in favor of the resolution, because I believe it may accomplish some good without jeopardizing any of our rights. What does it propose? That a Committee shall be appointed to confer with men who are undoubtedly elected members of this Constitutional Convention. If they will come in and take seats here with us, I have no objection whatever. I have no objection to receiving them here, and no good Democrat should have. If there is a man in the body now sitting in the other end of the Capitol entitled to a seat in this Convention, I have no objection to his being admitted here.

Mr. STREETER. If there is one entitled to a seat here, let him come and take it.

Mr. WARNER. Let him have some authority that he shall be received. Let a Committee be appointed to extend an invitation to him. For one, I have no sort of doubt that if the facts could be fairly placed before the country, we could clearly establish our position that the Democrats have the majority of the Convention. But sir, we lose nothing by giving an invitation to those who have transgressed, to return and take part with this Convention in forming a Constitution for the future State of Minnesota. I am acquainted with a number of the members of that body, and I know them to be honorable men; men who would not intentionally do a wrong act. I am in favor of the resolution.

Mr. MEEKER. Either we are right, or we are wrong. If we are wrong, I propose that we shall repair to the other Hall and claim our seats without an invitation. If we are right, then let them come here and contend for their seats. The very act of recognizing them here, sends forth to the world the implication that we have some doubt as to the correctness of our position. It would virtually be saying to them: we are inclined to think we are right, but you may be right, and we will treat with you upon terms of equality; the very fact of conference admits the equality of the conferring parties. If we are prepared to take that step downwards and backwards, then the course proposed is the proper one, but if we know we are right as we have hitherto asserted, then I say the course proposed by the resolution is a most impolitic one.

Mr. STACEY. I am opposed to sending in the white flag. We are not so hotly pressed as to make such a step necessary. I can readily appreciate the motives which prompted the gentleman who offered this resolution, but they are not motives which will be appreciated by our opponents. No sir, pass this resolution and the Republicans will herald it to the country, that the Democratic Convention are backing down from their position, that they have acknowledged that they are wrong. I care not what may be our motives in passing it, these are the motives which will be attributed to us by our opponents all over the country. For one, I do not feel disposed to place myself in that position before the country. I am opposed to the resolution. If there is a spirit of conciliation in the body in the other end of the Capitol, let the proposition come from there. I am in favor of a reconciliation if it can be effected on honorable terms. But to send a Committee to ask them to treat with us, would be to acknowledge that we are wrong, which I will not consent to do.

Mr. CHASE. The reason why I made the motion to postpone until Monday, was that the resolution might be properly considered. I am opposed to it myself, but I do not think it will do any harm to consider it.

Mr. GORMAN. Since this resolution has been introduced, I would rather have it acted on directly. I think in point of policy it had better be acted upon. I think the resolution itself can do no possible harm in the world. If the opposition are telling the truth, when they proclaim to the world that this is an unfortunate split, if they are telling the truth when they are trying to impress upon the country that somebody is wrong, let us see who is in the wrong, and give them an opportunity of placing themselves right. My friend from St. Anthony, (Mr. MEEKER,) does not surely imagine that we are going to give up our organization, with the record before us, placing us in the right according to all parliamentary custom and usage. That would be suicidal. Since the motion is before the world, I say let us have the conference; with such a Committee as the Chair will appoint, let me assure gentlemen there is not the slightest danger that they will allow our opponents to take any advantage of us.

Personally, I should like to have seen the resolution introduced originally elsewhere, but now it is here I am for it, and I appreciate fully the motives which prompted it. They were founded in the public good, independent of all party; motives dictated by higher considerations than those of mere party. Sir, I have been urged again and again by citizens of the Territory, by Democrats, Merchants, and the substantial men of the city, to see if something could not be done to affect a reconciliation. I have replied that I believed we were right, and that if our opponents wished to effect a reconciliation let them send in a proposition for that purpose.

The resolution as it comes before us has assumed an official form. The plan I should have proposed would have been for a conference to have originally taken place upon the subject between the respective parties, if a reconciliation was to be effected. But sir, the proposition is before us, and I say let us adopt it. I have said from the beginning, and so announced in this Hall that I would not consent that any person should be admitted into this Convention, unless it is to recognize the voice of the people at the ballot box. I am willing to recognize that voice, by admitting those men to come and take seats with us if they are entitled to seats, but I will never consent to recognize their organization.

Mr. SETZER. You do recognize it, by entertaining this resolution.

Mr. GORMAN. If that was the effect of the proposition, I would yield immediately. But sir, such is not my view of the resolution. I have no doubt that if the Conference is authorized, it will be responded to by the body sitting in the other wing of the Capitol. In conversation with a member of that body—I will name the person. In a conversation with Judge Mantor, the subject was incidentally mentioned; I said to him that if such a thing were proposed, it would be better that the arrangements should be made between the respective parties outside, but now it is here, I will say to our friends in this body, that it is feared the split in the Convention may effect the Capitalists of the Territory disadvantageously. It is feared that the credit of the Territory may be injured. The only question that can come before our constituents if a reconciliation should take place would be: are we right? I say we are right, and before I would recognize that organization in the other end of the Capitol, I would be beaten forty times. I say we are right, and therefore I do not think the resolution can do any harm.

Mr. SETZER. We have been told on the floor of this Convention, that the resolution before us does not recognize the organization in the other end of the Capitol. I contend it does. Has any member upon this floor been notified officially that such a body is in existence? With whom is your Committee to confer when they are appointed? with a Campmeeting? Gentlemen tell us that there are legally elected members of the Convention sitting in that body. What authority have they for the assertion? Have they ever seen any credentials? Our credentials were presented here in this Convention, referred to a Committee, examined by that Committee and reported back to the Convention. That is the way we obtained our seats here; and now it is proposed that a Committee shall be appointed to confer with men whom it is stated are legally elected to this body, and that they shall be asked to come in here and take seats with us. Sir, if they have been legally elected, let them come and claim their seats. I say that to pass this resolution is to acknowledge the existence of another organized Constitutional Convention sitting in the other end of the Capitol.

Mr. PRESIDENT, we have gone thus far legally and right. We have prosecuted our business with diligence, and we intend to present to the people of Minnesota a good Constitution and a Democratic Constitution. Why then should we invite the assistance of others, and of others who do not desire to come in and join us, for their actions show that they don't? I am fully convinced that this is *the* Constitutional Convention, and I for one am not going backwards. If gentlemen here determine to appoint a Committee to

go and beg other men to acknowledge us, I want no further connection with the Constitutional Convention.

SEVERAL MEMBERS. Nor I, nor I.

Mr. BAKER. I have only to say in reference to this resolution that I was not surprised to see it here, for I heard a week ago that it was coming. I want no postponement; I am as ready to vote to lay it on the table and there let it lay, as I shall at any future time. If it is parliamentary to say it, I cannot see one word of truth in the resolution. I think it is all wrong. You acknowledge that body in the other end of the Capitol to be a legally organized body, when as every man knows they are there without the least semblance of authority.

Now, Sir, how far capitalists may press upon my colleague, (Mr. GORMAN,) I do not know, for I have none, and as far as credit is concerned, I do not know either, for I have very little to lose; but I shall not go for a proposition which has no better semblance of right than this. Sir, the proposition for amalgamation in my opinion, is most inopportune. I once asked an old lady what she should think of seeing the blacks and whites intermarry. "Ay," said she, "you may live to see it." I may live to see such a con summation, but I would rather not be at the marriage feast.

But, gentlemen tell us that there are persons legally elected who belong to this body in the other end of the Capitol. If there are such persons, they have known for weeks that the Constitutional Convention is regularly in session and has been sitting here from day to day. They could have come here and claimed their seats at any time, and I hope we shall not so forget our position now, as to appoint a Committee of five to go and confer with them. I am opposed to the resolution and hope it will be indefinitely postponed.

Mr. BUTLER. My belief in the correctness of the position assumed by this Convention has become, and is now, a part of my conscience and my faith, and sir, with such a conviction, to recede from our position at this time, would be anything but pleasant to me. If this resolution is to prevail, or is not this morning indefinitely postponed, I shall be inclined to regard it as *prima facie* evidence that we acknowledge the incorrectness of our position. The remarks of the gentleman from Houston, (Mr. STREETER,) suit me exactly. This is the Constitutional Convention, and to make any concession to outsiders, is placing a doubt upon our own integrity. I hope the motion indefinitely to postpone will prevail.

Mr. BROWN. It appears to me that gentlemen look at this matter very differently from what I do. I do not suppose that we are to retract one hair's breadth from the position we have hereto-

fore occupied by the consideration of this resolution. Now, sir, I have no hesitation in saying that I am not for the resolution in its present shape. But still, I would vote for some proposition that should have for its object the bringing about of a reconciliation or som earrangement by which there should but one Constitution go before the people. Mr. PRESIDENT, I will not take one step backward. I will not by my vote, sanction any measure which can justly prejudice the position which we occupy as the legally constituted Convention of the Territory. I can see no such injury which is to result from the adoption of the resolution which is before us. I would merely provide that a Committee shall be appointed to take into consideration in what manner one Constitution shall be placed before the people, instead of two. Such a resolution I would willingly support. I believe that it would be for the best interests of the Democratic party and of the Territory, that we should have but one Constitution, and that a Democratic one, and that matters should be placed in such shape that our future elections, our future legislation, and the whole paraphranalia of government shall not be trammelled by separate and distinct organizations.

If that can be effected, I think it is our duty to effect it. I can see nothing in such a proposition to show that we have doubts as to the position we hold as the Constitutional Convention of the Territory. I hope the motion to postpone indefinitely will not prevail, but that the subject will be laid over until Monday for consideration.

Mr. SHERBURNE. I have been somewhat amused, though perhaps not very much surprised, by the manner in which this proposition has been received by the different members upon this floor. It seems to be supposed that the passage of the resolution before us, is to take out of existence all the facts which have transpired in the last three or four weeks. I had never doubted until I heard the remarks which have been made here this morning, that we are the Constitutional Convention. If we are such a Convention, I suppose we shall remain so until we have closed our business. I suppose the same facts which made us a Convention will continue us a Convention until the end, and I cannot conceive why gentlemen are so much troubled in regard to the effect of the simple proposition which appears upon that paper.

Mr. PRESIDENT :—I had always supposed that a proposition of compromise should come from the conquering party. I think that will be found to be the fact in the history of Napoleon Buonaparte that when he had conquered and held the power in his own hands,

he came forward with propositions of compromise. Now, sir, I do not desire to make a speech, but I do desire to make an explanation for the purpose of setting myself and the members of the Convention right upon this subject. I stated in the outset that this resolution was not offered upon consulation with a single man. It has been stated by one gentleman here that he knew a week ago this proposition was coming. Well sir, I will not call in question the veracity of that gentleman, but I think no one will call in question my veracity, when I state to the Convention that last evening was the first time it occurred to me, and then while I was alone. I never consulted with a human being on the subject, and when the gentleman knew a week ago the proposition was coming, he must have been in a mesmeric, or perhaps some other superhuman state.

Sir, we occupy a position which is injurious to the best interests of our Territory. Gentlemen may get excited as much as they please about a mere matter of etiquette as to who is right and who is wrong. It is a known fact that the position we hold as a Convention is injurious to the Territory.

Mr. SETZER. Why should not they who have produced the injury take the consequences?

Mr. SHERBURNE. I do not understand the gentleman, and perhaps it is immaterial that I should. I repeat that the position we hold is injurious to the Territory, and if there is no other man here who has the boldness or honesty to rise above a mere matter of etiquette for the purpose of relieving ourselves from the injuries of the position which we occupy, I have. From the first I have been one who upheld the organization of this Convention. I think we were right. But, sir, there is another body composed of about the same number of legally elected members who call themselves a Convention, who assert their rights with quite as much strength, and who are now engaged in making a Constitution. Gentlemen say, how do we know these facts? Mr. PRESIDENT, you know that what I have stated are facts, the papers are full of it; it is in the mouth of everybody throughout the length and breadth of the land; the remarks of gentlemen upon this floor, which are spread upon our record, are full of it.

I am perfectly willing, if the form of the resolution does not meet the views of gentlemen, that it should be changed in any manner whatever to meet the views of the Convention. My only wish is, that the object shall be attained. One gentleman has told us that this should not be the body to hold out the white flag. Sir, there is no reason why the strong man should not show the white flag. If he is in that position and fails to do it, it shows his cow-

ardice. If we refuse to do it, it shows a want of confidence in our position. If we know we are right, why should we fear to make this offer of compromise? I hope the Convention will assert its dignity and show enough of fearlessness to carry out some proposition by which the object of this resolution shall be attained.

Mr. STREETER demanded the yeas and nays upon the motion to postpone indefinitely.

The yeas and nays were ordered.

The question was taken, and it was decided in the affirmative; yeas 23, nays 19, as follows:

YEAS—Messrs. Butler, Baker, Burns, Bailly, Baasen, Cantell, Day, Faber, Gilman, Jerome, Kingsbury, Kennedy, Keegan, Meeker, Rolette, Setzer, Stacy, Streeter, Sturgis, Taylor, Tenvoorde, Vasseur and Wait.

NAYS—Messrs. Ames, Becker, Burwell, Brown, Chase, Gilbert, Gorman, Lashelle, McGrorty, McFetridge, McMahon, Nash, Prince, Sanderson, Sherburne, Swan, Tuttle, Warner, and Mr. President.

So the resolution was indefinitely postponed.

On motion of Mr. BAKER, at half-past ten o'clock, the Convention adjourned until Monday next.

TWENTY-FOURTH DAY.

MONDAY, August 10th, 1857.

The Convention met at nine o'clock, A. M.

Prayer by the Chaplain.

The Journal of Saturday was read and approved.

Mr. SHERBUNE from the Committee on the Judicial Department of the State, submitted a report which was laid on the table.

COMMITTEE ON IMPEACHMENTS AND REMOVALS.

Mr. MEEKER stated that the subject of Impeachments and Removals from office, had been referred specially to no Committee, and as it did not legitimately come within the province of any one of the Standing Committees, he moved the appointment of a Committee of Five upon that subject.

Mr. SHERBURNE thought such a Committee should be appointed.

The motion was agreed to.

BILL OF RIGHTS.

The business first in order, being the consideration in Convention, of the report of the Committee of the Whole, on the Bill of Rights.

Mr. SIBLEY (Mr. SETZER in the Chair,) moved to suspend the Rules, so as to admit a reconsideration of the vote, by which Mr. GORMAN's amendment to Section 15, was adopted.

The motion was agreed to, and the rules were accordingly suspended.

Mr. SIBLEY. I now move to reconsider the vote by which that amendment was adopted. I find that I voted for it hastily, without a due appreciation of the effect it would have on the whole subject. Now sir, so far as this Convention are concerned, I believe they are unanimous in the opinion, that when a fraud has been committed, the party should be punished; but the gentleman from Ramsey, took the ground that no man should be restrained of his liberty, upon the mere affidavit of an interested individual. That is to say, that no person should be allowed merely upon his affidavit, that another person had committed fraud, to obtain the imprisonment of that person without a trial first being had. It was upon that view of the case that I voted for the amendment.

But sir, upon reflection, I can see that the idea of waiting on final process for conviction, before the fraudulent debtor can be apprehended, would be pregnant with great evils to the community. Now sir, this amendment proposes to exhonorate from imprisonment, a man whom the community at large are satisfied has committed fraud, until the necessary steps for his conviction have been taken before a Judicial tribunal. It seems to me such a provision would render any attempt to punish fraud useless. The fact that no arrest can be made until the whole question has been adjudicated on final process in the Court, it seems to me, will enable every prisoner to escape from the meshes of the law, and get beyond the reach of that punishment to which, if guilty, he is amenable.

My first impressions were that to allow a man to be arrested and imprisoned, merely upon affidavit that he had committed fraud, would subject him to unnecessary hardships, and it was under that impression that I voted for the amendment of the gentleman from St. Paul. But upon reflection it seems to me that in consideration of the pains and penalties of perjury, to which the man who willfully swears that an innocent person is guilty, subjects himself, the hardship is all upon the other side. I therefore submit the motion to reconsider the vote, by which the amendment was adopted.

Mr. MEEKER. I have no doubt that when the amendment of the gentleman from St. Paul was voted into this Constitution, many other members voted under a similar misapprehension. I appre-

hend that that amendment would have the effect of restricting the Legislature, in the passage of those remedial laws for the punishmsnt of fraud, which in every State are found necessary for the protection of the public. I am, with the gentleman from St. Paul, and so is every other member of this Constitution, in opposition to imprisonment for debt. The idea of incarcerating a man merely because he is poor and unable to pay a *bone fida* debt, which he has honestly contracted, is barbarous in the extreme. But sir, the power of punishing fraud is one which every State, so far as I have any knowledge, has wisely vested in the Legislature.

But sir, what is imprisonment? It does not necessarily mean incarceration in the jail or penitentiary. The keeping of a man under arrest is imprisonment. But power should certainly be given to arrest. Why, sir, under this amendment, a man may take your property or mine, by means of fraud, and there would be no power that could hold him even to bail for his appearance, and no man would ever be arrested after conviction. The Legislature would be stricken down, utterly powerless, to provide any remedy against fraud.

Mr. GORMAN. I am not going to make a speech, but I rise to a point of order. I want to know if this matter can be considered upon a motion to reconsider, the previous question having been ordered upon it.

The PRESIDENT. The previous question was exhausted when the vote was taken on the amendment.

Mr. MEEKER. I was proceeding to say that I don't think we are wiser than every body and everything which has preceded us. I think that what other States have deemed to be necessary, wise and prudent provisions of Constitutional law, we ought not to reject without consideration. We ought, at all events, to debate and take time to consider before we reverse the principles which they have deemed it wise to adopt. Now, sir, nearly all the States have made provision for imprisonment in case of fraud. Section 19 of the Bill of Rights, in the Constitution of the State of Kentucky, reads:

> That the person of the debtor, where there is not strong presumption of fraud, shall not be continued in prison, after delivering up his estate for the benefit of his creditors, in such manner as shall be prescribed by law.

The provision on the subject in the Constitution of Tennessee is similar. That of Ohio is in different terms but in stronger language. The State of Illinois—a very good Democratic State—has a similar provision, the effect of which is, that not until the debtor shall come up frankly and surrender his property and his means to the extent of his ability, shall he be exempt from liability to arrest.

Mr. MURRAY. I wish to ask the gentleman if the Constitutions to which he is referring, were not adopted some time in the last century?

Mr. MEEKER. I think the Constitution of Ohio was adopted in 1837; that of Kentucky, about 1849; that of Tennessee, I think, in 1844; that of Illinois, in 1818, and that of Maryland, which has a similar provision, 1851.

Why, sir, if the State is to be restrained from passing these remedial laws, you offer a premium to perjury. Any man may commit the blackest fraud, and you cannot compel him to respond to any process of law. You may indict him for the fraud, but before the process of trial can have been gone through with, he will place himself out of the reach of the law.

Mr. SIBLEY. I merely wish to state, that in making this motion to reconsider, I am as much opposed to imprisonment for debt as any member of this Convention, or as any man can be. But the reason why I have made the motion is, that I am satisfied its effect will be to enable the prisoner to get beyond the reach of the law, before any process of arrest can issue. I, however, do not wish to detain the Convention, and if no one wishes to debate further, I will move the previous question.

Mr. BAKER. It strikes me that we are proceeding rather peculiarly. I hear from gentlemen of age and experience on my right and left, that we should profit by the experience of the past, and at the same time cautioning us against trammelling the Legislature in its provisions for the imprisonment of fraudulent debtors. Now, with great deference to these gentlemen, I submit that in the decisions of the last ten years, the cases of imprisonment for fraud have dwindled down to nothing. I do not want to have any provision put in this Constitution by which a man may be imprisoned unjustly. I think it is the duty of men in business transactions to provide against fraud. If A, B or C, comes here from abroad to purchase property on credit, it is the business of those with whom he deals to ascertain who he is and who his endorsers are. There need be no such thing as fraud in civil transactions, if men use the proper amount of caution; and I am opposed to any constitutional provision which may allow a man to be unjustly imprisoned.

The previous question was ordered on the motion to reconsider.

Mr. GORMAN. I ask for the yeas and nays upon the motion.

The yeas and nays were not ordered.

The qustion was taken and it was decided in the affirmative.

So the vote was reconsidered and the question recurred upon the

amendment to insert in Section 15, after the word fraud, the words "of which he shall have been duly convicted."

Mr. SIBLEY having moved the previous question thereon, and the same having been ordered, and the yeas and nays being called for and ordered, there were yeas 9, nays 30, as follows:

YEAS—Messrs. Baker, Cantell, Day, Gorman, Jerome, McGrorty, Rolette, Stacey, and Sturgis—9.

NAYS—Messrs. A. E. Ames, Becker, Barrett, Burns, Brown, Baasen, Chase, Davis, Emmett, Faber, Flandrau, Gilman, Kingsbury, Keegan, Murray, Meeker, McFetridge, McMahan, Nash, Prince, Setzer, Sanderson, Sherburne, Streeter, Swan, Taylor, Tenvoorde, Vasseur, Wait, and Mr. President—30.

So the amendment of Mr. GORMAN was rejected.

Mr. GORMAN. I now move to amend the first clause of the section so that it will read:

There shall be no imprisonment for debt in this State except for fraud first proven.

Mr. SHERBURNE. There is an objection it seems to the amendment which I will suggest to my colleague who offered it. It is as to what construction shall be placed upon it in case it is inserted. How proven? Upon the affidavit of the Sheriff or upon the affidavit of witnesses in open court? If the latter, then the amendment the amounts to about the same as that first offered, because if you use expression in its technical sense, it amounts to a conviction of the offender. If you take it, however, in its more limited sense, I have no particular objection to it, except that I desire to see every provision of the Constitution put in such language as will have no room for the courts hereafter to doubt the construction intended to be given. But I can see, and I think my colleague will be able to see, that there will be great difference of opinion arise as to the construction to be given to the language used in the amendment. I will not make any motion upon the subject, but if the amendment is to be adopted I hope he will change the phraseology somewhat.

Mr. GORMAN. I dislike to trouble the Convention further upon this subject, for every gentleman understands it perfectly. I offered the amendment in the shape in which it now stands, for this reason: The first amendment which I offered was in these words, "of which he shall have been duly convicted." By the use of that word it presupposes final judgment in the case. By the language which I now use, I imply nothing more than that the evidence shall be such as to satisfy the authority ordering the arrest and imprisonment. It may be by affidavit or by whatever evidence the court may prescribe. I offered this as the next best proposition. I myself preferred the first amendment which the Convention has rejected.

Mr. SHERBURNE. If the gentleman will pardon me, I will

suggest a modification of the amendment so that it shall read—"first proven to the satisfaction of the court having power to issue "the process."

Mr. BECKER. I wish to ask my colleague if he deems such a provision in the Constitution necessary?

Mr. SHERBURNE. I say, no.

Mr. BECKER. Then I hope the gentleman will vote against it.

Mr. GORMAN. I will modify the amendment so that it shall read, "first proven to the satisfaction of the officer issuing the "writ." I have in the course of my legal practice, seen so many instances of parties making affidavits against others through malice, through ill-will, or through a prejudice which was stronger than malice or ill-will—and I have seen so many of our fellow-citizens incarcerated in prison through such means, that I for one shall be exceedingly cautious how I confer an unlimited power to imprison upon the mere statement of an interested party, that fraud has been committed. Now, sir, I want something more than such an affidavit. I want him to say how the fraud was committed, and I want him to satisfy the court or satisfy somebody besides himself that it has been committed. I want somebody else besides the creditor to be satisfied that fraud has been committed before the debtor is imprisoned, and I shall insist that some provision to that effect shall be inserted.

Mr. SHERBURNE. The question was asked whether I consider such a provision necessary to be inserted into the Constitution and I answered distinctly, no. Now, sir, I am in favor of proper precaution against unjust imprisonment, but I think the details of the matter ought to be, and may safely be left to the Legislature. I am, therefore, opposed to the amendment being incorporated into the Constitution.

Mr. FLANDRAU. The amendment, as it now stands, as I understand it, is, that the fraud shall be first proven to the satisfaction of the Court, before the party shall be imprisoned. Now, sir, it seems to me that the gentleman from Ramsey, who offered the amendment, (Mr. GORMAN) has been fighting an imaginary foe. The precaution that the fraud must be first proven to the satisfaction of the officer issuing the process, would not be necessary even as a Legislative enactment. Any person at all acquainted with legal proceedings must see at once that without any statutory or constitutional requirement to that effect, the fact that the fraud has been committed must necessarily be in the possession of the officer issuing the process before he can issue it.

Mr. GORMAN. How?

Mr. FLANDRAU. By legal proof. There is no other way. He must have legal evidence of the facts and circumstances connected with the commission of the fraud, such as are sufficient to satisfy him that the fraud has been committed.

Mr. BECKER. No party would ever be imprisoned upon a mere affidavit that fraud had been committed.

Mr. FLANDRAU. Certainly not, because that would be swearing to a legal conclusion, which the court is to determine from the circumstances stated by the witnesses. If I make application for a process to issue against a man who is in my debt, and merely swear that fraud has been committed in the contraction of that debt, no legal officer whatever, would take notice of the application, because I have sworn to nothing but the legal consequence which he is to ascertain from the proof presented.. For this reason, I shall vote against the amendment, which, I think, is useless. I think it means nothing. It adds no strength whatever to the section as it stands. When the Legislature come to make regulations for issuing processes of this kind, as of course they must, they will prescribe what bail shall be prescribed, and the conditions under which the party shall be imprisoned if he shall fail to procure bail. I think the whole matter should be regulated by the Legislature. But when you prescribe in the Constitution that no process shall issue for the arrest of the offender for the commission of fraud until the fraud shall have been proven, you place it beyond the power of the Legislature, and beyond the power of the courts, to have any man arrested until he shall have been convicted, for proof is only necessary to his conviction in a court of justice. If this construction shall be placed upon it therefore, it means the same as the amendment originally offered, which the Convention have this morning rejected.

Mr. SIBLEY. If the amendment means nothing, and amounts to nothing, I ask the gentleman what objection he has to its being inserted?

Mr. FLANDRAU. I came here to frame a Constitution to be presented to the people for their gratification, every clause of which shall have a meaning. I wish to present nothing which in my judgment is a nullity. It is for that reason that I shall vote against the amendment.

Now, Mr. PRESIDENT, this question of imprisonment for debt is one in reference to which I do not believe there is a dissenting voice in this Convention. There is no man here in favor of imprisonment for debt under any circumstances. But that is no reason why our citizens should not be protected against fraud.

Mr. SIBLEY. I do not wish to prolong this discussion. We have got a plenty to do and very little time to do it in, but I wish to reply in a very few words to the answer the gentleman from Nicolett has given to my question. The gentleman thinks this amendment is a nullity. Now, Sir, there are several of us here who do not think it is a nullity, and if the only objection the gentleman can urge is that it means nothing, then it can do no harm in his opinion, and in the opinion of some of us may do good. I think under these circumstances the gentleman would not be justified in voting against the amendment upon the ground he has stated.

Mr. FLANDRAU. I have great respect for the gentleman's judgment, but I know of no other rule for my own action here than to vote upon my own judgment of what is proper.

Mr. SIBLEY. I did not mean to dictate to the gentleman how he shall vote. I merely stated my opinion that the reasons given by him were insufficient to justify him in voting against the amendment. Of course, he will vote as he pleases.

Mr. BROWN. Gentlemen seem to think it is absolutely necessary that some provision of this kind shall be placed in the Constitution, and that the introduction of this clause into the Constitution will settle the manner in which parties guilty of fraud shall be proceeded against. Now, I hold that it is altogether a mistake. The section as it now reads without the amendment would, in my judgment preclude the Legislature from the possibility of providing by law in any manner for the imprisonment of a debtor for a debt not fraudulently contracted. It says briefly that there shall be no imprisonment for debt except in case of fraud. The Legislature would therefore have no power to provide for imprisoning a man for fraud unless it shall first be proven to the satisfaction of the officers applied to to issue process against the debtor.

Mr. EMMETT. I am opposed to this amendment, not on the ground stated by the gentleman from Nicollet, because it is a nullity, but because I think it is wrong. We all agree that a fraud which would justify the imprisonment of a man for debt is of itself a moral crime; not one necessarily made so by the Statute. It places the man who has deprived another of his property, through fraud, upon the same footing of the man who has stolen property. Now, suppose you were to provide in this Constitution that no person should be imprisoned for crime until the crime has first been proven, what does that mean? It means that the crime shall be established by some process of law. You could not then even arrest a man for crime or hold him to account for it until

after he had had his trial. As I understand the section as it now stands it enables the Legislature to make provisions of law under which a man charged with fraud may be arrested, and not necessarily imprisoned, but held to answer the charge before the Courts. You could not, of course, arrest a man merely upon the general charge of fraud. The circumstances must be stated with sufficient detail to enable the officer to judge whether, if proven, they would amount to fraud. If so, then the party may be arrested and held to bail. I hold that persons guilty of fraud should be dealt with precisely as other criminals.

But, Sir, if the amendment of my colleague is to be adopted, how are you going to prove the fraud to the satisfaction of the officer issuing the writ? Must it not be proven in the same way that other facts are proved, by a regular process of law? But my colleague says he would not have a man imprisoned upon a mere affidavit. Now, Sir, any man making such an affidavit falsely would be liable to be punished for perjury; and he would also be liable to punishment for malicious prosecution; so that the remedy is ample. I see no necessity of putting anything into the Constitution on the subject beyond what is already contained in the section as it now stands.

On motion of Mr. SIBLEY the previous question was ordered on the amendment.

Mr. GORMAN demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken, and it was decided in the negative. Yeas 10, nays 26, as follows.:

YEAS—Messrs. M. E. Ames, Baker, Davis, Day, Gorman, Lashelle, McGrorty, Sanderson, Stacey and Sturgis—10.

NAYS—Messrs. A. E. Ames, Becker, Barrett, Burns, Brown, Chase, Emmett, Faber, Flandrau, Gilman, Jerome, Kingsbury, Keegan, Murray, Meeker, McFetridge, Nash, Prince, Setzer, Sherburne, Streeter, Swan, Tenvoorde, Tuttle, Wait and Mr. President—26.

So the amendment was disagreed to.

Mr. GORMAN. I move to amend the section now by striking out the words, "unless in case of fraud."

Mr. BROWN. I rise to a question of order. These words have been voted in by the Convention, and I submit that it is not in order to move to strike them out.

The PRESIDENT, *pro tem.* There has been no action of the Convention directly upon them.

Mr. GORMAN. Gentlemen say, leave it to the Legislature to provide the manner in which persons shall be imprisoned in case of fraud. Now, I say, leave the whole matter to the Legislature.

I am for making a clean thing of it one way or the other. Either make such provisions that a man cannot through malice make an affidavit against another and then imprison him, or else simply say there shall be imprisonment for debt and leave the matter exclusively with the Legislature.

On motion of Mr. SIBLEY, the previous question was ordered.

The question was taken, and it was decided in the affirmative. Yeas 24, nays 16, as follows :

YEAS—Messrs. A. E. Ames, M. E. Ames, Becker, Baker, Barrett, Cantell, Chase, Davis, Day, Faber, Gorman, Jerome, Kingsbury, Lashelle, Murray, McGrorty, McFetridge, Nash, Sanderson, Stacey, Sturgis, Tuttle, Vasseur and Mr. President—24.

NAYS—Messrs. Burns, Brown, Baasen, Emmett, Flandrau, Gilman, Keegan, Meeker, Prince, Setzer, Sherburne, Streeter, Swan, Taylor, Tenvoorde and Wait—16.

So the motion was agreed to.

Mr. A. E. AMES moved to strike out Section 15 and insert the following :

SEC. 15. There shall be no imprisonment for debt in this State.

Which motion was disagreed to.

Mr. WAIT moved to strike out Section 15.

Which motion was disagreed to.

Mr. EMMETT moved to amend by adding to Section 15, after the word "State," the following : "But this shall not prevent the "Legislature from providing for imprisonment or holding to bail "persons charged with fraud in contracting said debt."

The motion was agreed to.

The question was next stated on concurring in the amendment to Section 16, to add to the section the words, "first paid or secured," so that the section would read :

Private property shall not be taken for public uses without just compensation therefor first paid or secured.

Mr. BECKER. There is a difficulty in my mind in the way of this amendment. I am in favor of the principle of the amendment, but it seems to me there may cases arise in which it will be difficult to carry it out. Take, for instance, the case of a fire in this city. It may become necessary to destroy private property to prevent the further spread of the fire. Now if the authorities would have no right to take such property until its value had been first paid or secured, it might give us trouble.

Mr. EMMETT. I apprehend the provision would not be applicable to such a case as that mentioned by my colleague.

Mr. SHERBURNE. I must say with all due respect to my colleague (Mr. EMMETT) I think the section as originally reported,

is amply sufficient to accomplish the object for which it was intended. As it stands, the Legislature will have power to provide the manner in which the rights of the citizens shall be secured in the possession of their property, and I think the amendment had better not be adopted.

Mr. EMMETT. It has been suggested that my amendment would not cover such a case as that stated by my colleague (Mr. BECKER.) Now sir, there is a vast difference between taking property for public use and destroying it for the public safety. I do not think it is a case which can fairly come within the operation of this section. As I understand the section, its application is intended to have reference principally to property, taken for the use of railroads and canals, such as the right of way for their benefit, upon the ground that such property is for the public use ; and it seems to me it would involve a great hardship to require a man to allow a railroad to run through his farm and his property to be taken for its use, merely upon a promise to pay at some future time, which promise might never be redeemed in the course of his life.

Mr. SHERBURNE. I have no particular interest in the matter, but my opinion is that if the amendment is to pass, we may have difficulty from it in future. It is impossible for us here in the Constitution to make detailed provisions as to how matters of this kind shall be carried out. If we are to build railroads, the right of way must be granted to them, and it will be for the Legislature to provide in detail, how the rights of private citizens shall be protected. It is for them to provide that the damages shall be assessed by a jury, or how they shall be assessed, and in what manner they shall be paid. There may be extreme cases of hardship under any general provision which may be adopted, but I do not think we can provide against them. We must submit to them if the general effect of the law is good.

I hope the amendment will not prevail. The section as it stands without the amendment is the same as that in most of the Constitutions. I have never known such a provision as the gentleman proposes, to be inserted, and I have never known the provision as contained in the section operate hardly as a general rule. It seems to me we had better not adopt a new rule, the effects of which we cannot foresee, and the effects of which may be detrimental to the best interests of the State.

Mr. EMMETT. I have only to say that if the Railroad Company cannot pay for, or secure pay for the right of way there will not be much prospect of their building the road.

Mr. SHERBURNE. The Legislature will provide whatever regulations are necessary.

Mr. EMMETT. The Legislature may provide, but in my opinion we should not authorize the Legislature to grant away private property for the public use, without securing payment beyond contingency. If it is left until afterwards, the company to whom it is granted may become insolvent and then the party has no remedy. If the Company is not able to pay for or secure the payment of the right of way, I do not think it ought to be granted to them.

The question was taken and it was decided in the affirmative, yeas 22, nays 18, as follows:

YEAS—Messrs. Baker, Burns, Cantell, Chase, Day, Emmett, Faber, Gorman, Jerome, Keegan, Lashelle, Meeker, McGrorty, McFetridge, Sanderson, Stacey, Streeter, Swan, Taylor, Tenvoorde, Vasseur, and Wait—22.

NAYS—Messrs. A. E. Ames, M. E. Ames, Becker, Barrett, Brown, Baasen, Davis, Flandrau, Gilman, Kingsbury, Murray, McMahan, Prince, Setzer, Sherburne, Sturgis, Tuttle and Mr. President—18.

So the amendment was concurred in.

Mr. EMMETT moved to amend Section 11 of the Bill of Rights by striking out the word "or" in the first line, and inserting after the words "*ex post facto*" the words "or retroactive," so that the Section as amended shall read:

No Bill of Attainder, or *ex post facto*, or retroactive law, or law impairing the obligations of Contracts, shall ever be passed.

Mr. EMMETT. My object in offering this amendment will be apparent. The expression "*ex post facto*" refers only to criminal law. Now, we should establish the same great right of citizens under the civil law.

Mr. MEEKER. Does not the gentleman consider the clause that there shall be no law passed impairing the obligations of contracts, as covering the object he seeks to attain?

Mr. EMMETT. I think not.

The amendment was agreed to.

Mr. MURRAY. I move the following as an additional section:

No distinction shall ever be made by law between resident citizens in reference to the possession, enjoyment or inheritance of property.

THE PRESIDENT. The amendment is the same in substance with Section 12, which has been rejected by the Convention. The Chair decides it to be out of order.

Mr. MURRAY. I think it is not the same, and I take an appeal from the decision of the Chair.

The decision of the Chair was sustained by the Convention.

Mr. BAASEN. I move the following as an additional section:

Aliens shall enjoy the same rights in this State in respect to the inheritance of property as native-born citizens.

THE PRESIDENT. The Chair decides the amendment to be out of order.

Mr. BAASEN. I appeal from the decision of the Chair.

The decision of the Chair was sustained by the Convention.

Mr. M. E. AMES. I move the following as an additional amendment:

All actual residents of this State shall at all times enjoy equal rights in respect to the inheritance and descent of real property.

THE PRESIDENT. The Chair is of opinion that the amendment is out of order.

Mr. M. E. AMES. I shall not take an appeal, for the reason that I presume the Convention will sustain the decision of the Chair, and because I do not wish to; but I simply rise to call the attention of the Chair to the phraseology of the amendment. He will find that the first clause covers a much larger class of residents than the section which has been rejected by the Convention.

THE PRESIDENT. The Chair considers the distinction between "actual" and "*bona fide*" residents as entirely imaginary.

Mr. M. E. AMES. I suppose the question of order is not debatable; but, sir, the point I make is, that the term "actual residents" covers a large class of persons who are not *bona fide* residents, to whom the original section granted the privilege of holding and inheriting real estate. I think my proposition makes a broad and distinct difference from the original clause which has been rejected by the Convention. I move a suspension of the rules, to allow me to introduce the amendment. I do not know that the Convention would adopt the amendment if regularly before them, but, as they say in California, "Give the man a fair trial, and then hang him anyhow." [Laughter.]

The rules were not suspended.

The Article as amended was then ordered to be engrossed.

EXECUTIVE DEPARTMENT.

On motion of Mr. KINGSBURY the Convention resolved itself into Committee of the Whole, on the Report of the Committee on the Executive Department, Mr. FLANDRAU in the Chair.

The following is the Report of the Committee:

LEGISLATIVE DEPARTMENT

SECTION 1. The Executive Department shall consist of a Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, and Attorney General, who shall be chosen by the electors of the State.

SEC. 2. The Governor, Lieutenant Governor, Secretary of State, Treasurer,

and Attorney-General, shall hold their offices for two years, and the Auditor for four years. Their terms of office, after the first, shall begin on the first Monday in January next after their election, and continue until their successors are elected and qualified.

SEC. 3. The returns of every election, for the officers named in the foregoing section, shall be made to the Secretary of State, and by him transmitted to the Speaker of the House of Representatives, who shall cause the same to be opened and canvassed before both Houses of the Legislative Assembly, and the result declared within three days after each House shall be organized.

SEC. 4. The term of office for the Governor and Lieutenant-Governor shall be two years, and until their successors are chosen and qualified. They shall each have attained the age of twenty-five (25) years, and shall have been a *bona fide* resident of the State for one year next preceding their election. They shall be citizens of the United States by birth or adoption.

SEC. 5. The Governor shall communicate by message to each session of the Legislative Assembly such information touching the state and condition of the country as he may deem expedient. He shall be Commander-in-Chief of the Militia, except when called into service by the United States, he may require the opinion in writing, of the principal officer in each of the Executive Departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves, and pardons for offences against the State, except in cases of impeachment. He shall have power by and with the advice and consent of the Senate, to appoint a State Librarian and Notary Public; he shall have power to appoint Commissioners to take the acknowledgment of Deeds or other instruments in writing, to be used in the State. He shall have a negative upon all laws passed by the Legislative Assembly under such rules and limitations as is in this Constitution prescribed. He may on extraordinary occasions convene both Houses of the Legislature, and in case of a disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, not beyond the next regular session. He shall take care that the laws be faithfully executed.

SEC. 6. The Governor shall have power to fill all vacancies that may occur in the County, District, Circuit and Supreme Judges, until the next annual election, and until their successors be chosen and qualified. He shall also fill any vacancy that may occur in the offices of Secretary of State, Treasurer, Auditor, Attorney-General, and such other State or District offices as may be hereafter created by law, until the next annual election, and until their successors are chosen and qualified.

SEC. 7. The official term of the Secretary of State, Treasurer and Attorney-General, shall be two years. The official term of the Auditor shall be four years. The Governor's salary for the first term under this Constitution shall be fifteen hundred dollars per annum. The Auditor and Treasures shall each, for the first term, receive a salary of one thousand dollars per annum. The Attorney-General shall, for the first term, receive an annual salary of two hundred and fifty dollars and fees, and the further dues and salaries of said Executive officers shall each thereafter be prescribed by law.

SEC. 8. The Lieutenant-Governor shall be *ex-officio* President of the Senate, and in case a vacancy should occur from any cause whatever in the office of Governor, he shall be Governor during such vacancy. The compensation of Lieutenant-Governor shall be double the compensation of a State Senator. Before the close of each session of the Senate they shall elect a President *pro*

tempore, who shall be Lieutenant-Governor in case a vacancy should occur in that office.

SEC. 9. The term of each of the Executive offices named in this article shall commence upon taking the oath of office, after the State shall be admitted by Congress into the Union, and continue until the first Monday in January, 1860, except the Auditor, who shall continue in office until the first Monday in January, 1862.

SEC. 10. Each officer created by this chapter shall, before entering upon his duties, take an oath or affirmation to support the Constitution of the United States and of this State, and faithfully discharge the duties thereof to the best of his judgment and ability.

SEC. 11. The Governor, Lieutenant-Governor, Secretary of State, Auditor, Treasurer, and Attorney-General, shall each be elected by the qualified electors on the day of , 1857.

SEC. 12. Laws shall be passed at the first session of the Legislature after the State is admitted into the Union, to carry out the provisions of this article.

Mr. MURRAY moved to strike out "two," and insert "four," in the following section:

SEC. 2. The Governor, Lieutenant-Governor, Secretary of State, Treasurer, and Attorney-General, shall hold their offices for two years, and the Auditor for four years. Their terms of office, after the first, shall begin on the first Monday in January next after their election, and continue until their successors are elected and qualified.

Mr. BROWN. I also move to strike out of the section the words "Governor and Lieutenant Governor." I find that it is provided in the 4th section, that their term of office shall be two years and until their successors are elected and qualified. I think the phraseology of the 4th section is preferable, and there is no need of making the same provision in two different sections.

Mr. GORMAN. I see the objection which the gentleman makes, but it will be necessary to make some provision for the first term.

Mr. BROWN. Put it in the Schedule.

Mr. GORMAN. Certainly; I do not care where you put it.

The amendment to the amendment was agreed to.

Mr. MURRAY. Before the question is taken on my amendment I wish to say that I have moved it for the purpose of obtaining the sense of the Convention upon adopting a longer term of office for the Executive officers than is provided for in the report. My own preference is that the term should be a long one, and then make the incumbents ineligible for re-election.

Mr. MEEKER. I would like to see the Chief Magistrate and the Lieutenant Governor at least elected for four years, and then made ineligible to hold office forever afterwards, or at least for one term. I want them placed in the position where they will have no temptation to act in the affairs of State with reference to their own succession to office. I want to see them adapt their line

of policy to subserve the best interests of the State, and not to subserve the ends of politicians, and to secure their own purposes of office. I am in favor of making the Governor and Lieutenant Governor elective for four years, and then make them ineligible to re-election; and then I am in favor of biennial sessions of the Legislature.

Mr. SIBLEY. I hope the amendment will not prevail. I am opposed to fixing the term of any high officer, and especially that of Governor, for as long a term as four years; I think two years are long enough.

The amendment was disagreed to.

Mr. KINGSBURY. I move to insert "three" instead of "two."

The amendment was disagreed to.

On motion of Mr. MURRAY, Section 2 was stricken out.

Mr. SIBLEY moved to strike out the words, "by birth or adoption," in the following section:

SEC. 4. The term of office for the Governor and Lieutenant-Governor shall be two years, and until their successors are chosen and qualified. They shall each have attained the age of twenty-five (25) years, and shall have been a *bona fide* resident of the State for one year next preceding their election. They shall each be citizens of the United States by birth or adoption.

The amendment was agreed to.

Mr. EMMETT moved further to amend Section 4 by striking out the words, "shall each have attained the age of twenty-five years, and."

The motion was disagreed to.

Mr. EMMETT. I move to amend, then, by striking out "twenty-five," and inserting "fifty." I am in favor of making any person who is qualified to vote, eligible to any office under the State Government, but if age and experience is what we must have, why, we cannot have too much of a good thing. I hope, therefore, the amendment will prevail. I do not see why gentlemen should stultify themselves by voting it down.

Mr. BROWN. I would enquire if the gentleman does not fear they will learn too much between the ages of twenty-five and fifty?

Mr. MURRAY. If age is the gentleman's only object I hope he will make it a hundred. [Laughter.]

Mr. A. E. AMES. I move to amend the amendment by striking out "fifty" and inserting "twenty-one." I prefer that all qualified voters shall be made eligible, and then allow the people to determine for themselves who they will have for Governor.

The amendment to the amendment was not agreed to.

The amendment was also disagreed to.

Mr. EMMETT. I move to strike out "twenty-five" and insert "twenty-two."

Mr. SETZER. As the gentleman's object seems to be to secure the shortest possible time, I move to amend the amendment by inserting "ten." [Laughter.]

The amendment to the amendment was agreed to.

The amendment as amended was then rejected.

The following section being under consideration:

Sec. 5. The Governor shall communicate by message to each session of the Legislative Assembly such information touching the state and condition of the country as he may deem expedient. He shall be Commander-in-Chief of the Militia except when called into service by the United States; he may require the opinion in writing of the principal officer in each of the Executive Departments upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves, and pardons for offenses against the State, except in cases of impeachment. He shall have power by and with the advice and consent of the Senate, to appoint a State Librarian and Notaries Public; he shall have power to appoint Commissioners to take the acknowledgment of Deeds or other instruments in writing to be used in the State. He shall have a negative upon all laws passed by the Legislative Assembly under such rules and limitations as is in this Constitution prescribed. He may on extraordinary occasions convene both Houses of the Legislature, and in case of a disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, not beyond the next regular session. He shall take care that the laws be faithfully executed.

Mr. BECKER moved to strike out the words, "he shall be Commander-in-Chief of the Militia, except when called into service by the United States," and insert in lieu thereof, "he shall be Commander-in-Chief of the Military and Naval forces, and may call out such forces to execute the laws, to suppress insurrections, and to repel invasions."

Mr. B. said: My reasons for offering that amendment are, that I think the Governor should be the Commander-in-Chief of the Militia, even if they are called out by the United States authorities; and because I think the Governor should also have the command of the Naval forces which it may become necessary to employ on our northern boundary.

Mr. M. E. AMES. I rise merely to enquire whether there are any naval forces in the service of the State?

Mr. BECKER. I think the time may come when the State will find it necessary to authorize the employment of naval forces on Lake Superior, and in that case the Governor should be the Commander in Chief.

The amendment was agreed to.

Mr. BROWN. I move to amend the section by striking out in the latter clause, the following words: "and in case of a disagree-

"ment between them with respect to the time of adjournment, he "may adjourn then to such time as he shall think proper, not beyond "the next regular session."

Extra sessions of the Legislature have been provided for in the Constitution, and I think this provision is unnecessary and wrong.

Mr. GORMAN. This is the language used in the Constitution of the United States, but my friend says it is wrong anyhow.

Mr. BROWN. So it is.

Mr. GORMAN. Then the Constitution of the United States is wrong. If the session of the Legislature were limited in the Constitution to any specific number of days, the necessity for this clause would be obviated, but a state of things may exist in which it will be impossible for the Legislature to agree upon any day for adjournment, and I think the Governor should have power in such an exigency to adjourn them.

Mr. BROWN. If we were always sure of having a Democratic majority in all branches of the Government, I should have no objection to the clause which I have proposed to strike out; but if the Legislature should be Democratic, and the Executive Republican, the Legislature would be placed in the hands of the Governor and the effect might be injurious to the best interests of the State.

Mr. GORMAN. If gentlemen will take the pains to refer to the Constitution of the United States, they will find this power conferred on the President of the United States, in these words, "He "may on extraordinary occasions, convene both houses, or either of "them; and in case of disagreement with respect to the time of ad-"journment, he may adjourn them to such time as he shall think prop-"er." Now, I think gentlemen must see that if it should so happen that the two houses are unable to agree upon any time of adjournment, there ought to be some power to determine when the Legislature shall adjourn. You will find that the same provision has been adopted into the Constitutions of the States of Ohio, Indiana, Illinois, Michigan, and I believe into the Constitutions of nearly all the States.

The amendment was not adopted.

Mr. STACEY. I move further to amend section 5 by inserting after the word "pardons" the words "after conviction." I have known pardons granted before conviction.

Mr. GORMAN. Here is another provision in the exact language of the Constitution of the United States, except that I have substituted the word "State" for "United States." I am very much inclined to think that the power ought to be in the hands of the Governor to grant pardons or reprieves precisely as it is taken and

accepted by the courts under the Constitution of the United States. I do not apprehend that there will be any danger of any such power being exercised at an improper time, for as the Governor is elected by the people and responsible to the people, he will certainly be careful how he exercises any such power improperly.

Mr. CURTIS. I am opposed to the amendment upon an entirely different principle from that just stated by the gentleman from Ramsey. It is unnecessary, because the very idea of pardon implies that there has been a conviction. I think it would be impossible that pardon should precede conviction. I hope, therefore, the amendment will not be adopted.

The amendment was not agreed to.

Mr. SETZER. I move to amend section 5 by inserting after the word "State," the words "by and with the consent of the Senate." I will state that the pardoning power has been much abused in several of the States where it has been vested solely in the hands of the Governor. There should be, in my opinion, some sovereign power to control the Governor in granting pardons. We have in the Eastern States convicts pardoned out of the penitentiaries by the Governor as soon as they are convicted. This is a most dangerous power to vest in the hands of one man, and I hope some check will be placed upon it.

Mr. CURTIS. If this power is placed in the hands of the Senate, we shall have to keep that body in perpetual session in order that justice may be done.

The amendment was disagreed to.

Mr. BROWN moved to amend the section by inserting after the words "notaries public" the words "and such other officers as may be provided by law."

The amendment was agreed to.

Mr. MURRAY. I move to strike out the words "not beyond the next regular session." The reason why I make this motion is that the Committee have refused to strike out the provision giving the Governor power to adjourn the two Houses of the Legislature in case of disagreement between them, on the argument of the gentleman from Ramsey (Mr. GORMAN) that it was taken from the Constitution of the United States. I find that the words I have moved to strike out are not contained in the Constitution of the United States. Now, sir, I must say that I will never vote for a proposition which places the whole legislative power of the government in the hands of one man. I have no objection to limiting the length of the session to sixty days, but the Governor should not be permitted, whenever the Legislature does not conform to his wishes,

to adjourn them until the next regular session. I think the power is a dangerous one and I will never vote for it, simply because it is embodied in the Constitution of the United States. The motion to strike out the whole clause has once been voted down by the Committee, and I apprehend that a similar motion would not be again in order. If it were in order, I should again make the motion. I now simply move to amend the clause so as to make it conform to the Constitution of the United States.

The motion was agreed to.

Mr. EMMETT. I move to strike out in the seventeenth line all after the word "Legislature" to the end of the section, as follows:

"And in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, not beyond the next regular session. He shall take care that the laws be faithfully executed."

The motion was agreed to.

Mr. SHERBURNE. I move to strike out the following section:

SEC. 6. The Governor shall have power to fill all vacancies that may occur in the County, District, Circuit or Supreme Judges until the next annual election and until their successors be chosen and qualified. He shall also fill any vacancy that may occur in the offices of Secretary of State, Treasurer, Auditor, Attorney General and such other State or District offices as may be hereafter created by law, until the next annual election and until their successors are chosen and qualified.

I make this motion, not because I have any particular wish in relation to the matter, but because the subject has been fully taken into consideration in the report of the Committee on the Judiciary Department. It will no doubt give rise to discussion when the report comes to be considered, and for that reason, I do not think it necessary that we should now take up the time of the Convention with it.

Mr. BAASEN. I would suggest to the gentleman that he should so modify his motion as to strike out only the first clause of the section. The latter clause, which refers to State officers, I presume has not been taken charge of by the Committee on the Judicial Department.

Mr. SHERBURNE. I adopt the gentleman's suggestion.

The amendment, as modified, was agreed to.

Mr. MURRAY moved to strike out "fifteen hundred dollars" as compensation to the Secretary of the State, and insert "two thousand dollars" in the following section:

SEC. 7. The official term of the Secretary of State, Treasurer, and Attorney General, shall be two years. The official term of the Auditor shall be four years. The Governor's salary for the first term under this Constitution, shall be two thousand five hundred dollars per annum. The salary of the Secretary

of State for the first term, shall be fifteen hundred dollars per annum. The Auditor and Treasuer shall each, for the first term, receive a salary of one thousand dollars per annum. The Attorney General, shall, for the first term, receive an annual salary of two hundred and fifty dollars and fees, and the further dues and salaries of said Executive officers shall each thereafter be prescribed by law.

The motion was not agreed to.

Mr. M. E AMES moved to amend the section by striking out the words "two hundred and fifty dollars and fees" and insert "one thousand dollars."

The motion was agreed to.

Mr. BAASEN. I move to add the words "and until their successors shall have been duly elected and qualified," to the following section:

SEC. 9. The term of each of the Executive offices named in this Article shall commence upon taking the oath of office, after the State shall be admitted by Congress into the Union, and continue until the first Monday in January, 1860, except the Auditor who shall continue in office until the first Monday in January, 1862.

My reason for offering the amendment, is that if the Legislature shall come together before the first Monday in January, it may be detained several weeks before the House can organize or the Governor be qualified.

The amendment was agreed to.

Mr. GORMAN. The second section having been stricken out, I think the seventh section which prescribes the official terms of the different officers, ought to be amended by adding the words "and shall continue until their successors shall be chosen and qualified."

The amendment was agreed to.

Mr. M. E. AMES moved to strike out the words "thereof," and insert "of their office," in the following section:

SEC. 10. Each officer created by this chapter, shall, before entering upon his duties, take an oath or affirmation to support the Constitution of the United States and of this State, and faithfully discharge the duties thereof to the best of his judgment and ability.

The motion was agreed to.

Mr. BROWN. I move to strike out the following section:

SEC. 11. The Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer and Attorney General, shall each be elected by the qualified electors on the day of 1857.

That portion of the Schedule which provides for the apportionment and for the election of the different officers, will cover the whole subject.

The motion was agreed to.

On motion of Mr A. E. AMES, the Committee rose, reported the

article back to the Convention with amendments, and asked the concurrence of the Convention therein.

On motion of Mr. BECKER, the Convention at one o'clock, adjourned until half past 2 o'clock, P. M.

AFTERNOON SESSION.

The Convention met at half past two o'clock.

APPOINTMENT OF A COMMITTEE.

The PRESIDENT announced the following gentlemen as the Committee on Impeachment and removal from office: Messrs. WAIT, MEEKER, MURRAY, STACEY, and KINGSBURY.

EXECUTIVE DEPARTMENT.

On motion of Mr. KINGSBURY, the Article on the Executive Department was taken up and the amendments of the Committee of the Whole, were concurred in, in gross.

Mr. STACEY. I now renew the amendment voted down in Committee, to insert in section five, after the word "pardons," the words "after conviction."

Mr. PRESIDENT, the pardoning power is a power which has been as much abused as any connected with the Executive office. All who have observed the exercise of that power by Executive officers will concur with me, that some restrictions should be imposed. I am willing to give the Governor power to pardon criminals, but I am in favor of restricting it as much as possible. The gentlem an from Washington, (Mr. CURTIS,) stated that no pardon could be granted until after conviction. I think the gentleman is right, but in the State of Pennsylvania, where the power has been very much abused, a similar clause in the Constitution has been construed otherwise. To so great an extent has the power been carried in that State, we have seen the party of which the Governor was a member, almost sacrificed in consequence of its abuse.

Now, Sir, when a man is charged with crime, I do not care whether justly or unjustly, he should have a trial before the Executive is called upon to pardon him. I think that such is the fair construction of the section as it now stands. But in order to make the matter perfectly safe. I hope the amendment will be adopted.

Mr. FLANDRAU. I would ask the gentleman to suggest one instance in which a pardon or reprieve could take place before conviction. If he can suggest a single instance, I will be willing to vote for his amendment.

Mr. SHERBURNE. I rise for the purpose of suggesting that, although I think the construction which would admit a pardon before conviction is wrong, I do know of my own personal knowledge, that that construction has been adopted, and adopted in cases where I think it has been abused. I think the amendment should be adopted, and if instances occur in which it would be proper for a pardon to be granted during prosecution, the Attorney General would have the power to enter a *nol pros.*

The amendment was agreed to.

Mr. CHASE. I move to amend by adding to section 10, the following:

"And the Treasurer elected in accordance with this Article shall give a bond in the penal sum of one hundred thousand dollars to the Governor, and to be approved by him before entering upon his duties."

Mr. EMMET moved to amend the amendment by striking out the words "one hundred thousand dollars," and insert instead thereof, the words "such sum as the Legislature may from time to time prescribe."

The amendment to the amendment was agreed to.

The question recurred on the amendment as amended.

Mr. SHERBURNE. Some provision, I suppose, should be made either in the Constitution or by law, for the safe keeping, transfer and disbursement of the State funds. I think such a provision is contained in the report of the Committee on Banks and Banking. If the Convention think this is the proper place, I have no objection to the provision being inserted here; but I am inclined to think, that as the matter has been reported upon by another Committee, it would be better to consider the subject in connection with their report.

Mr. EMMETT. I have offered this amendment, not because I have any particular desire to insert any provision on this subject in this Article, but because I am opposed to fixing any particular sum, and especially when we have no data before us as to the amount of funds which may be in the hands of the Treasurer. If the Treasurer has in his possession $500,000, I want the bonds to be sufficient to cover that amount. I am in favor, therefore, of leaving it to the Legislature from time to time to fix the bonds of the Treasurer, and for that reason I offered the amendment to the amendment which has been adopted.

The amendment as amended was not agreed to.

The Article as amended was then ordered to be engrossed.

FINANCES OF THE STATE, &C.

On motion of Mr. KINGSBURY, the Convention resolved itself

into Committee of the Whole on the report of the Committee on the Finances of the State, Banks and Banking.

Mr. BECKER in the Chair:

The following is the report of the Committee:

FINANCES OF THE STATE AND BANKS AND BANKING.

SECTION 1. All taxes to be raised in this State shall be as nearly equal as may be, and all property on which taxes are to be levied, shall have a cash valuation, and be equalized and uniform throughout the State.

SEC. 2. The Legislature shall provide for an annual tax sufficient to defray the estimated expenses for each year, and whenever it shall happen that the expenses of the State for any year shall exceed the income of the State for such year, the Legistature shall provide for levying a tax for the ensuing year, sufficient with other sources of income to pay the deficiency of the preceding year, together with the estimated expenses of such ensuing year.

SEC. 3. Laws shall be passed taxing all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, and also all real and personal property, according to its true value in money—but public burying-grounds, public school houses, academies, colleges, universities, and all seminaries of learning, all churches, institutions of purely public charity, public property used exclusively for any public purpose, and personal property to an amount not exceeding in value two hundred dollars for each individual, may by general laws be exempt from taxation.

SEC. 4. Laws shall be passed for taxing the notes and bills discounted or purchased, moneys loaned, and all other property, effects or dues of every description (without deduction) of all Banks; and of all Bankers, so that all property employed in banking shall always be on a burden of taxation equal to that imposed on the property of individuals.

SEC. 5. For the purpose of defraying extraordinary expenditures, the State may contract public debts, but such debts shall never singly, nor in the aggregate, exceed two hundred and fifty thousand dollars; every such debt shall be authorized by law, for some single object to be distinctly specified therein, and no such law shall take effect until it shall have been passed by the vote of two-thirds of the members of each house to be recorded by yeas and nays on the journals of each house respectively; and every such law shall levy a tax annually sufficient to pay the annual interest of such debt, and also a tax sufficient to pay the principal of such debt within seven years from the final passage of such law, and shall specially appropriate the proceeds of such taxes to the payment of such principal and interest, and such appropriation and taxes shall not be repealed, postponed or diminished until the principal and interest of such debt shall have been wholly paid.

SEC. 6. All debts authorized by the preceding section shall be contracted by loan on State Bonds of amounts not less than five hundred dollars each, on interest, payable within seven years after the final passage of the law authorizing such debt; and such bonds shall not be sold under par. A correct registry of all such bonds shall be kept by the Treasurer, in numerical order, so as always to exhibit the number and amount unpaid and to whom severally made payable.

SEC. 7. This State shall never contract any public debt, unless in time of war, to repel invasion or suppress insurrection, except in the cases and in the manner provided in the fifth and sixth sections of this Article.

SEC. 8. The money arising from any loan made or debt or liability contract-

ed, shall be applied to the object specified in the act authorizing such debt or liability, or to the repayment of such debt or liability, and to no other purpose whatever.

SEC. 9. No money shall ever be paid out of the Treasury of this State, except in pursuance of an appropriation by law.

SEC. 10. The credit of the State shall never be given or loaned in aid of any individual, association or corporation.

SEC. 11. There shall be published by the Treasurer, in at least one newspaper printed at the seat of government, during the first week in January of each year, and in the next volume of the acts of the Legislature, detailed statements of all the moneys drawn from the Treasury during the preceding year, for what purposes, and to whom paid, and by what law authorized, and also of all moneys received, and by what authority, and from whom.

SEC. 12. Suitable laws shall be passed by the Legislature for the safe keeping, transfer and disbursement of the State funds, and all officers and other persons charged with the same shall be required to give ample security for all moneys and funds of any kind, to keep an accurate entry of each sum received, and of each payment and transfer, and if any of said officers or other persons shall convert to his own use in any form, or shall loan with or without interest, or shall deposit in bank, or exchange for other funds any portion of the funds of the State, every such act shall be adjudged to be an embezzlement of so much of the State funds as shall be thus taken, and shall be declared a felony; and any failure to pay over or produce the State funds intrusted to such person, on demand, shall be held and taken to be *prima facie* evidence of such embezzlement.

SEC. 13. The Legislature shall not have power to create, authorize or incorporate by any general or special law, any Bank or Banking power, or privilege, or any institution or corporation having any Banking power or privilege whatever, except as provided in Section fourteen (14) of this Article.

SEC. 14. The Legislature may submit to the voters at any general election, the question of "Bank or no Bank," and if at any such election, a number equal to a majority of all the votes cast at such election on that subject, shall be in favor of banks, then the Legislature shall have power to pass a general banking law, with the following restrictions and requirements, viz:

First, The Legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments by any person, association or corporation issuing bank notes of any description.

Second, The Legislature shall provide by law for the registry of all bills or notes issued or put in circulation as money, and shall require ample security in United States stocks or State stocks, for the redemption of the same in specie.

Third, The stockholders in every corporation and joint association for banking purposes issuing bank notes, shall be individually liable over and above the stock by him or her owned, and any amount unpaid thereon, to a further sum at least equal in amount to such stock.

Fourth, In case of the insolvency of any bank or banking association, the bill holders thereof shall be entitled to preference in payment over all other creditors of such bank or association.

Section 2d being under consideration,

Mr. SHERBURNE said: I confess to this Committee that I had never read this Section until this moment, and I am not prepared to suggest an amendment. But I have some doubt

whether its provisions, in the present shape, would always be practicable. It reads:

Sec. 2. The Legislature shall provide for an annual tax sufficient to defray the estimated expenses for each year, and whenever it shall happen that the expenses of the State for any year shall exceed the income of the State for such year, the Legislature shall provide for levying a tax for the ensuing year sufficient with other sources of income to pay the deficiency of the preceding year, together with the estimated expenses of such ensuing year.

I do not know what may be understood by the language "with "other sources of income." It may happen that there may be some years when it will be inexpedient to levy a tax sufficient to pay the whole indebtedness of the State. I do not know what limit may be fixed to which the State may go in debt. I suppose some limit will be fixed in the Constitution. A gentleman informs me that $250,000 has been fixed in a subsequent Section of this report. Now, sir, if the State in one year goes in debt to that amount, I doubt whether it will be expedient to require the Legislature to raise the whole sum by a tax to be levied for that year. And again, I suppose circumstances may occur which may render it necessary for the State to incur expenses to the amount of millions.

Mr. HOLCOMBE. I will state that there is an exception in case of insurrection provided for in Section 7.

Mr. SHERBURNE. That makes the case still stronger. If emergencies should arise in which the State finds itself required to incur very heavy expenses, its indebtedness should be paid in instalments. It strikes me that the Section as it now stands, ought not to be adopted, and I hope some gentleman will suggest an amendment to relieve the difficulty.

Mr. KINGSBURY. I move to amend the Section in the fourth line, by striking out the word "shall," and inserting "may."

Mr. CURTIS. I do not know what the precise design of the Committee was, but it strikes me that the object they intended to accomplish is to provide for the ordinary expenses of the State Government, and not to cover a State debt, which may be contracted. I think the ordinary expenses of the State Government, are not properly included in the term "public debt," and if so, then it seems to me the gentleman's objection falls.

Mr. HOLCOMBE. This Report classifies the debts of the State, and the Article now under consideration, refers simply to the ordinary annual expenses of the Government. The fifth Section provides for defraying the extraordinary expenses of the State, and limits the amount to which the State may go in debt to two hundred and fifty thousand dollars. The seventh Section provides that the State shall never contract any public debt, except in time

of war or to repel invasion, except as provided in preceding Sections. Any debts incurred in time of war, or under any extraordinary emergency are not, therefore, covered by this Section.

Mr. SHERBURNE. I am satisfied with the gentleman's explanation, and withdraw all objection to the Section.

Mr. KINGSBURY withdrew his amendment.

Mr. NORRIS moved to amend the Section, by inserting before the word "expenses," the word "ordinary."

The amendment was agreed to.

Mr. CURTIS moved further to amend by inserting after the word "expenses," in the second line, the words "of the State."

The amendment was adopted.

Mr. SHERBURNE moved to amend by striking out, in the third line, the words "of the State."

The amendment was adopted.

Mr. SIBLEY moved to strike out the word "the," in the third line of the Section, and insert in lieu thereof the word "such."

Mr. McGRORTY moved to insert after the word "school-houses," the words "public hospitals," in the following Section:

SEC. 3. Laws shall be passed taxing all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, and also all real and personal property, according to its true value in money—but public burying-grounds, public, school houses, academies, colleges, universities, and all seminaries of learning, all churches, institutions of purely public charity, public property used exclusively for any public purpose, and personal property to an amount not exceeding in value two hundred dollars for each individual, may by general laws be exempt from taxation.

The amendment was agreed to.

Mr. BAKER moved to amend the Section, by inserting after the word "churches," the words "church property."

Mr. HOLCOMBE. It was the intention of the Committee to have inserted that amendment into the report; but the correction was not made until after the report had been ordered to be printed.

Mr. TENVOORDE. I think it would be better to say, "church buildings." Churches may own farms, and I do not think it would be proper to except them from taxation.

The amendment was agreed to.

Mr. CURTIS. I move to insert after the word "churches," the words "and houses of public worship." If we are going into particulars, I want to go the whole figure.

Mr. BAKER. I hope the amendment will be adopted. I want to have all church property excepted from taxation. I think there will be no danger of our churches going into speculation. It strikes me that inasmuch as their mission is one of love to, and the amelio-

ration of the human race, to relieve and make happy humanity, we ought to grant them all the protection in our power.

Mr. M. E. AMES. I beg leave simply to ask my colleague, for the information of the Convention, to what church he belongs?

Mr. BAKER. Christ's Church, sir. [Laughter.]

The amendment was adopted.

Mr. M. E. AMES. I have an amendment to offer by way of limitation. I move to add at the end of the amendment just adopted, the words "not exceeding fifty thousand dollars in value." I make the motion for the simple reason, that there are at the present time, as I have reason to believe, some churches within this Territory holding property to the amount of two or three hundred thousand dollars, which, in five years from this time, will probably exceed a million dollars in value. I do not think that so large an amount of property, even if vested in a church, should be exempt from taxation.

Mr. MEEKER. I would inquire if the gentleman intends to make his amendment, apply to churches of any particular denomination within the proposed State.

Mr. M. E. AMES. Certainly not.

Mr. MEEKER. Then it applies to each individual denomination in the Territory.

Mr. M. E. AMES. That is the construction I intended, and I think the only one the language will bear.

Mr. McGRORTY. I rise simply to ask the intention of the gentlemen in offering this amendment? I wish to know whether he means to prevent religious societies from erecting large and expensive buildings for public worship? He is aware that the Catholic Church now in process of construction in this city, will cost much more than fifty thousand dollars, and I wish to know if he designs to tax that church upon all its property above that amount. I do not think the amendment is right. I believe we ought to encourage all religious societies in building as good churches as they can afford, and not to impose any tax upon them, whatever may be the cost of their construction.

Mr. M. E. AMES. My colleague asks my intention in offering this amendment, and inquires the application it is intended to have. I offered it for these reasons: There are instances in the United States where a single church holds property to the amount of millions of dollars. Take, for instance, the case of the Old Trinity Church in New-York, which, I am informed, possesses property to the amount of more than ten millions of dollars, vested in that single Society. It is true, that may be an exception to the gen-

eral rule: for it is, perhaps, the wealthiest institution of the kind in the country; but there are many other instances in the Eastern and the Western States where the title to property is vested in a single church to the amount of five hundred thousand dollars, and, perhaps, I might say of millions. I speak with regard to all religious denominations, and my amendment is, of course, applicable to all alike. I do not think it is good State policy—neither do I think it just and equitable to the tax-paying community, to exempt so large an aggregate of property from taxation. I do not think each individual church should be allowed to hold property free from taxation amounting to more than fifty thousand dollars. My colleague has referred to the Catholic Church now building in this City, which, I understand, will cost more than one hundred thousand dollars. I have no objection to its costing double that amount. I am glad to see that Church has the means of erecting so costly an edifice, but it does not follow that so large an amount of property should be exempt from taxation.

Mr. BAKER. I am not surprised that the gentleman should not have found out to what church I belong, since he has shown such utter ignorance in respect to religion generally, to say nothing of morals. [Laughter.] But, sir, I am surprised to hear him make the remarks he has made in reference to the churches of this land. Sir, no gentleman here can tell to what an extent these institutions are already taxed, or how often they are called upon for charities. I do not think that forty-eight hours will roll round, before my colleage himself will be called upon—if he has not been already—to contribute for the relief of persons who are now crying for bread. Our city authorities make provision to a certain extent for the poor, but it is the church only which can be relied on to relieve the necessities of the destitute. But, sir, if the gentleman will look to the action of the last Legislature of the State of New-York, he will find how a State can take care of church property. If I understand correctly, they have taken away all the property from a particular church in that State. The gentleman refers to Trinity Church, for the purpose of producing prejudice in the minds of this Convention against churches holding large properties in this country. Sir, if I am correctly informed, that Church, from its own funds, supports constantly more than five hundred persons; and, because it has the means of such charitable munificence, the gentleman would seek to impose additional burdens on it. If the gentleman will ascertain a little more about churches, it will do him no harm, and may do a good deal of good. [Laughter.] If I could bring down the great principle of charity to a mere matter

of making money: in other words, if I could reduce my immortality to a matter of dollars and cents, I might go for taxing all the church property above fifty thousand dollars. Sir, my colleague is ignorant—I say it in all kindness—of the great objects for which churches are established [Laughter]; but if the prosperity of this world should not come into his lap as lavishly as it is my wish it may—if want should be his lot, as may happen to every son of humanity,—then, sir, the same church whose funds he now desires to appropriate for State purposes, may open its portals, and grant to him not only the support necessary for this life, but for that which is to come. [Renewed Laughter.] I have no doubt, should his circumstances ever call for aid, he will receive it at their hands.

Mr. M. E. AMES. The argument and reasoning of my colleague is certainly most conclusive and overwhelming. I have no doubt that he is conversant with the condition of the churches in this City, as well as with the price of real estate. I have no doubt that his knowledge in these matters exceeds that of perhaps any other member of the Convention; and I acknowledge frankly the justice of his remarks in relation to myself, when, in the amplification of his charity, he charged upon me entire ignorance of churches, church matters, and also of morality. But, Mr. CHAIRMAN, there is one redeeming feature. Although there are some others of my colleagues who are in the same category, and might be classed with myself in the lamentable ignorance which it is our misfortune to possess, yet, I believe, it will be conceded that the delegation from this City upon this floor, in the aggregate, are the most pious and the most moral class of men who have obtained seats in this Convention; and the reason why it is so is owing to the morality, the religion,—the pure, unspotted, pious character, of my colleage who has just addressed the Convention. [Laughter.] Why, Mr. CHAIRMAN, sometimes, in my admiration of his character—sometimes in my admiration of his high-minded, pure, noble, and spotless character,—I have even suspected that my honorable colleague had intercourse with the spirits: for I scarcely know how he could be so pure without. [Great Laughter.]

The amendment was disagreed to.

Mr. WAIT moved to amend by inserting after the words "church property," the words "and for religious purposes."

The motion was agreed to.

Mr. SETZER moved to insert the word "public" before the word "worship."

The motion was agreed to.

Mr. MURRAY moved to amend the section in the 9th line by

striking out the words "may by general laws," and inserting the word "shall."

The amendment was agreed to.

Mr. BAASEN moved further to amend the section by striking out "two hundred," and inserting in lieu thereof "two hundred and fifty."

Mr. BAKER moved to amend the amendment by adding thereto the following:

All regular ordained ministers of the Gospel who make the calling of their Master their sole profession, and refuse holding civil offices shall be exempt from taxation to the amount of $2500 in real and personal property.

I have but one word to say upon this amendment. It happens to be my province to come from a section of country where several of these gentlemen reside, who, while they profess to follow the calling of their Great Master, are speculators and usurers. I want to make a distinction between these men and those ministers of the Gospel who are the faithful promoters of their Master's cause. Some of them became Registers of Deeds; some Justices of the Peace; some one thing and some another. Now, sir, I have more respect, as I have shown upon this floor, for these men of honesty and integrity who make the ministry of religion their calling and who keep clear of politics, than for any other class of citizens; and I, for one, desire that they should be exempt from taxation.

Mr. FLANDRAU. I ask the gentleman how he proposes to determine whether these Rev. gentlemen have kept themselves entirely within the mission of their great Masters?

Mr. BAKER. I answer the gentleman in the language of Scripture—"The tree is known by its fruit."

Mr. FLANDRAU. I will suggest that I am entirely willing that ministers of the Gospel shall be made incapable of holding any civil or military office under the State organization, and that they shall then be exempt from taxation to any amount, I do not care if they are worth a million. But if they are to be exempt from taxation, I wish them also not to serve the public in any civil or military capacity. On the other hand, if they are to take their chances in holding military or civil offices, then I am opposed to their being exempt, in any respect, from any of the burdens under the State organization imposed upon any other citizen. I am opposed to the amendment as it now stands.

Mr. KEEGAN. I wish to inquire of the gentleman who offered the amendment, if he will not specify those persons who are invited by religious societies to become their pastors.

Mr. BAKER. No, sir; I think the amendment is right as it stands.

The amendment to the amendment was not agreed to.

The amendment was rejected.

Mr. BAKER. I now renew the same amendment, exempting personal property not exceeding $1000.

Mr. FLANDRAU. I will suggest that in the Bill of Rights there is a section providing that a reasonable amount of property shall be exempted from seizure. I think the same provision will apply to taxation, but I can see no reason why any person who owns property should not contribute to the revenue of the State upon the amount he owns. If a man is worth a million, he is taxed upon his property at that valuation; if he only owns one hundred dollars, let him be taxed proportionately. I can see no reason for making any distinction between the wealthy and the poor citizen. We stand up here as Democrats, for equal and exact justice to all, and special privileges to none, rich or poor. Why, then, make a distinction in taxation between two parties? Let us have a government of equality, and let no man feel that he is a charity citizen in this State. Let him, if he owns property, pay taxes to his proportionate amount of the revenue into the treasury of the State. Make him feel his independence as a citizen of the State. I trust there will be no mark stamped upon any man indicating his poverty. I want every man to stand alike. If he is worth only ten dollars, let him pay his taxes equal in proportion to the man who is worth his millions, and do not place the stigma upon him that he belongs to a distinct class, because he possesses property less than a certain amount.

Mr. STACEY. There is no distinction made in this section as reported. It exempts personal property not exceeding $200 for each individual, rich or poor. It makes no distinction.

Mr. SHERBURNE. I agree with the gentleman from Nicollet, (Mr. FLANDRAU,) in the principle which he announced; but either he or I misunderstand the object of this provision. It simply makes an exception which is provided for in the Constitutions of most or all of the States. It is merely a matter of convenience, to save the assessors the necessity of examining wardrobes, beds and other furniture, when there is but a small amount, to assess taxes. I think the gentleman will not require that assessors shall be required to do this. The whole matter could be very well provided for by law, but I think the exception may very properly be placed in the Constitution.

The amendment was not agreed to.

Mr. CURTIS moved to insert after the words "personal property" the words "for household purposes."

Mr. FLANDRAU. It seems to me singular that the gentleman should desire to introduce this clause here. I do not believe there is any poor man who desires such an exemption. I do not believe there is a class of citizens in the Territory who desire to be stamped as paupers, and marked as exempt from taxation, who are to contribute nothing to the revenues of the State, but are to be declared by a clause in this Constitution charity citizens. I can not believe that such men exist in the free State of Minnesota. If they possess two hundred or two hundred and fifty dollars' worth of property, I do not believe they desire to be exempted from paying their proportion of the revenues of the State.

Mr. CURTIS. I think the gentleman does not understand the proposition. It does not discriminate or stamp any man as a pauper. It is merely to exempt two hundred dollars' worth of property for any man. It saves the assessor a great deal of labor. If a man possesses household furniture to the amount of two hundred dollars, it is exempt from taxation. If the man is worth $500,000, the same amount is exempt. The law bears equally upon the rich and poor.

The amendment was not agreed to.

Mr. M. E. AMES moved to amend by striking out the words "on a burden of" and inserting "subject to" in the following section:

SEC. 4. Laws shall be passed for taxing the notes and bills discounted, or purchased moneys loaned, and all other property, effects or dues of every description, without deduction, of all banks, and of all bankers, so that all property employed in banking shall always be on a burden of taxation equal to that imposed on the property.

The amendment was agreed to.

Mr. MURRAY. I should like to know what is the meaning of the words used in this section, "without deduction."

Mr. HOLCOMBE. The section as it stands was copied from another Constitution.

Mr. MURRAY. I move to strike out the words. I think they mean a good deal more than gentlemen are aware. They provide for taxing debts, credits and everything else, and I apprehend can be found nowhere except in the Constitution of the State of Ohio.

The amendment was not agreed to.

Mr. SIBLEY moved to strike out the words "singly nor" in the third line of the following section:

SEC. 5. For the purpose of defraying extraordinary expenditures, the State may contract public debts, but such debts shall never, singly nor in the aggregate, exceed two hundred and fifty thousand dollars; every such debt shall be authorized by law, for some single object to be specified therein, and no such law shall take effect until it shall have been passed by a vote of two-thirds of the members of each House, to be recorded by yeas and nays on the journals of

each House respectively; and every such law shall levy a tax annually sufficient to pay the annual interest of such debt, and also a tax sufficient to pay the principal of such debt within seven years from the final passage of such law, and shall specially appropriate the proceeds of such taxes to the payment of such principal and interest, and such appropriation and taxes shall not be repealed, postponed or diminished until the principal and interest of such debt shall have been wholly paid.

The motion was agreed to.

Mr. M. E. AMES. I move to amend by striking out all after the word "dollars" in the fourth line to the end of the section. I make the motion because I find upon reading this portion of the section carefully that it is a mere matter of legislation in lengthy details. I am opposed to incorporating into this Constitution matters which I conceive more properly and legitimately belong to the functions of the Legislature.

Mr. HOLCOMBE. I hope the amendment will not prevail. If there is anything in this article which will give the State credit at home and abroad, it is that which the gentleman proposes to strike out. What is it? It is that those who contract debts shall provide for their payment without any reservation. It is certainly a reasonable proposition that if a debt is contracted by authority of law, it shall be paid without any suspension or failure. I think it is a very important provision, and hope it will not be stricken out.

Mr. M. E. AMES. The reading of the section itself is a sufficient commentary to show that it is no more nor less than the details of legislative enactment, which I do not think it is good policy or a matter of propriety to incorporate into the Constitution. If we proceed to incorporate legislative enactments into the article we may do it in every other article in the Constitution. There is no reason why it should be done here more than in any other part of the Constitution. So far as giving the State credit is concerned, the limitations already provided, that the indebtedness shall not exceed $250,000, is a sufficient guarantee that its credit will always be good, and its bonds always at par, or very nearly so.

The amendment was disagreed to.

Mr. CHASE moved to strike out of the section the words "two thirds of."

The amendment was not agreed to.

Mr. GORMAN. I move to amend the section in the fourth line by inserting after "250,000" the words "for the first ten years after the State is admitted into the Union, and thereafter not exceeding one million dollars."

I do this, Mr. CHAIRMAN, for this reason. The amount to which the State may go in debt under this section may be sufficient for our present purposes, but in the future progress of the State it may become necessary to incur debts to a greater amount. With a population of a million inhabitants, a debt of $250,000 would be no debt at all, comparatively. I will not stop here to enumerate the various instances in which the State may desire to extend its credit for the purpose of accomplishing some great commercial or other object, or for the purpose of establishing various institutions, such as asylums for the deaf and dumb, for the blind, insane, and various others. $250,000 will be found entirely inadequate to accomplish any such purposes. I think, therefore, that after the first ten years we may safely increase our indebtedness to the million, and that to require a vote of two-thirds of the Legislature will be a sufficient safeguard. I think that such a provision will give us high credit and high financial character. We provide that the moment the debt is contracted the basis shall be laid for its payment, and there is no danger in extending our indebtedness to the amount I have specified.

Mr. SIBLEY. I am opposed, *in toto*, to the amendment offered by the gentleman from Ramsey. Now, Sir, I hold in my hand the new Constitution of the State of Iowa, containing a population much larger than Minnesota. One reason urged against the adoption of the Constitution was that too much latitude was given for the contraction of State debt. The first Constitution provided for a State debt of $250,000, and one strong reason urged for the rejection of this very Constitution before the people of Iowa has been that the limit is fixed at twice the amount of the former Constitution. Now, Sir, I can conceive of no case likely to occur in the next ten or twenty years where it will be necessary for the State of Minnesota to incur a debt of more than $250,000, and I am opposed *in toto* to the amendment.

Mr. SETZER. I shall vote against the amendment for the reason that we have this morning passed a provision for amending the Constitution whenever it shall become necessary, and if it shall become necessary ten years hence to contract a larger State debt, the Constitution can be amended for that purpose.

The amendment was disagreed to.

Mr. TUTTLE moved to strike out in the third line of the section the word "seven" and to insert "ten."

The amendment was agreed to.

Mr. STURGIS moved to strike out the word "House" in the seventh line and insert "branch of the Legislature."

The amendment was agreed to.

On motion of Mr. TUTTLE the sixth section was amended by striking out the word "seven" and inserting the word "ten" in the seventh line.

Mr. M. E. AMES. For the purpose of perfecting the sixth section I would suggest that there should be an alteration in the clause which reads "and such bonds shall not be sold under par." The provision as it now stands would prevent the State bonds from being sold second hand by individuals for less than their par value. I move to amend by inserting after the word "sold" the words "by the State."

Mr. SHERBURNE. I was rising to make a remark upon this very clause when my colleague rose. I suppose there should be no misunderstanding as to the precise meaning of the expression "under par," that is dollar for dollar. Now, sir, I have known the time when States with the best credits could not raise money dollar for dollar. If such a time should occur hereafter, I trust we shall not place it without the power of the Legislature to raise a dollar of money for any purpose whatever.

Mr. SIBLEY. I would suggest to the gentleman that he is mistaken in his view of the matter. The Legislature have different power to raise money.

Mr. SHERBURNE. If the Legislature is authorized by this provision to raise money whether at par or otherwise, then, of course, my objection amounts to nothing, but according to my understanding of the section as it now stands, the Legislature have only power to sell their seven per cent bonds at par. If however, the Legislature has the right to select what rate of interest may be necessary then I have no objection to the section as it stands.

Mr. HOLCOMBE. I think if the gentleman will look into the bearing of this section, he will find the meaning of the expression "shall not be sold under par" has no reference to the rate of interest which the bonds are to bear. The Legislature is to fix its rate of interest and we shall then know exactly the amount of money the State is to receive for its bonds. That is the intention of the provision. The bonds may draw interest at seven per cent, or five per cent, or if the contingency should arise, when money should become very scarce, it may be necessary, perhaps, for the Legislature to fix a higher rate of Interest; but whatever rates fixed, the bonds are not to be negotiated below par. If my memory serves me right, many of the States fix the rate of interest at six per cent, and then some Commissioner is appointed to negotiate the bonds. He may

negotiate bonds for $100 at $90 and the State never knows what it is to receive.

The amendment was agreed to.

Mr. BAKER moved that the Committee rise, report progress and ask leave to sit again.

The motion was not agreed to.

Mr. BROWN moved to strike out the following section:

"SEC. 13. The Legislature shall not have power to create, authorize or incorporate by any general or special law, any Bank or Banking power, or privilege, or any institution or corporation having any banking power or privilege whatever, except as provided in Section fourteen (14) of this Article."

And to insert in lieu thereof the following:

"SEC. 13. No debt shall be deemed to be liquidated in this State by virtue of the payment of the paper of any Banking corporation in circulation as money."

The motion was not agreed to.

Mr. A. E. AMES. I move to strike out of section fourteen the following:

"The Legislature may submit to the voters at any general election, the question of "Bank or no Bank," and if at any such election, a number equal to a majority of all the votes cast at such election on that subject, shall be in favor of banks, then."

There is no question at all in my mind that the people of Minnesota are in favor of having banks and I see no necessity of submitting the matter to a vote.

The amendment was not agreed to.

Mr. BAASEN moved to strike out the whole of section fourteen.

The motion was not agreed to.

On motion of Mr. GORMAN, the Committee rose, reported progress and asked leave to sit again.

Leave was granted.

On motion of Mr. GORMAN, the Convention at half past four o'clock P. M. adjourned.

TWENTY-FIFTH DAY.

TUESDAY, August 11, 1857.

The Convention met at 9 o'clock, A. M.

Prayer by the Chaplain.

The Journal of yesterday was read and approved.

THOS. H. ARMSTRONG.

Mr. BROWN, from the Committee on Credentials, presented the following report:

REPORT OF THE COMMITTEE ON CREDENTIALS IN THE CASE OF THOS. H. ARMSTRONG.

Your Committee having examined the documents placed before them in reference to the election of Thomas H. Armstrong, as delegate to the Constitutional Convention, have obtained the following facts from verified copies of the poll books of the several precincts, and from verified statements as to the illegality of votes cast at the election.

The poll books of the precincts in Mower County exhibits the votes polled as follows:

A. B. Vaugn received	- - - -	420 votes.
Rob't Lyle "	- - - -	401 "
T. H. Armstrong "	- - - -	370 "
J. M. Wycoff "	- - - - -	363 "
Boyd Phelps "	- - - -	418 "

By this exhibit it appears that Robert Lyle obtained a majority of thirty-one votes over T. H. Armstrong.

To demonstrate the illegality of votes cast for Mr. Lyle, it will be necessary to state here that at the Austin precinct, Mr. Lyle received three hundred and sixty-nine votes, and Mr. Armstrong received seven votes. There were three hundred and eighty votes polled at the precinct. By the affidavits of A. Gladson, G. M. Cameron, and H. A. Brown, had before the Committee, it appears that of the persons named as having voted at Austin on the first of June, as shown by the poll book, there were thirty-nine of the permanent residents in the County of Freeborn, actually designating by name, the persons of that County who voted at said precinct. There is another affidavit, showing fifty votes cast at Austin, by residents of Freeborn County. Your Committee, however, will base their report upon the lowest number, which are all designated by name, and those names corroborated by the Austin poll book.

As there were three hundred and eighty votes polled at Austin, of which Mr. Armstrong received seven, and thirty-nine illegal votes, Mr. Lyle could not have received at Austin, more than three hundred and thirty-six legal votes, instead of three hundred and sixty-nine, as exhibited by the returns of the precinct, making a differance of thirty-three votes, whereas Mr. Armstrong, by the returns, is but thirty-one votes behind Mr. Lyle—thus giving Mr. Armstrong two majority. This, it will be observed, is taken from one affidavit, which exhibits only thirty-nine illegal votes, but if taken in connection with the affidavit of Mr. K. Armstrong, the number of illegal votes polled at Austin amounts to fifty, and adds eleven more votes to the majority of Mr. Armstrong, giving him thirteen votes majority over Mr. Lyle, and clearly demonstrates the right of Mr. Armstrong to a seat in the Constitutional Convention, instead of Mr. Lyle, who received the certificate of election; Mr. Armstrong having, beyond all doubt, received a majority of the legal votes polled at the election in Mower County for Delegate to the Constitutional Convention, on Monday the first of June last. The documents in evidence of which are herewith transmitted.

Your Committee would therefore recommend that Mr. T. H. Armstrong be admitted to a seat in this Convention, and that he be sworn in as a member.

A. E. AMES,
JOSEPH R. BROWN,
J. S. NORRIS,
} Committee.

On motion of Mr. M. E. AMES, the said report was adopted.

On motion of Mr. KINGSBURY, Mr. ARMSTRONG was then sworn in by Mr. WAIT as a member of the Constitutional Convention.

Mr. ARMSTRONG then took his seat.

ENGROSSED ARTICLE.

Mr. A. E. AMES submitted the following report:

Your Committee on Enrollment report, as correctly engrossed, the following named Article, to wit: On the Legislative Department.

A. E. AMES,
J. H. SWAN, } Committee.

FINANCES OF THE STATE, ETC.

On motion of Mr. BECKER, the Convention resolved itself into Committee of the Whole, Mr. BECKER in the Chair, and resumed the consideration of the report of the Committee on Finances of the State, Banks and Banking, the following section being under consideration:

SEC. 14. The Legislature may submit to the voters, at any general election, the question of "Bank or no Bank," and if at any such election, a number equal to a majority of all the votes cast at such election on that subject, shall be in favor of banks, then the Legislature shall have power to pass a general banking law, with the following restrictions and requirements, viz:

First. The Legislature shall have no power to pass any law sanctioning, in any manner, directly or indirectly, the suspension of specie payments by any person, association or corporation issuing bank notes of any description.

Second. The Legislature shall provide by law, for the registry of all bills or notes issued or put in circulation as money, and shall require ample security in United States stocks or State stocks, for the redemption of the same in specie.

Third. The stockholders in every corporation and joint association for banking purposes issuing bank notes, shall be individually liable over and above the stock by him or her owned, and any amount unpaid thereon, to a further sum at least equal in amount to such stock.

Fourth. In case of the insolvency of any bank or banking association, the bill holders thereof shall be entitled to preference in payment over all other creditors of such bank or association.

Mr. MURRAY moved to amend the last paragraph of the section by striking out the words "bill holders" and inserting "depositors."

The motion was not agreed to.

Mr. STACEY moved to amend the third paragraph by inserting after the words "State Stocks," the words "or specie."

The motion was not agreed to.

Mr. BROWN. I move to strike out the word "may," in the first line of the section and to insert the word "shall."

The Section now gives the Legislature the power to submit the question whether we shall have Banks, to the people. I want to have that submission of the question made imperative upon them.

Mr. M. E. AMES. I think the section is right as it stands. It

is true that it leaves it at the discretion of the Legislature to submit the question to the voters of the State, but it makes it a condition precedent to the establishment of Banks. The Legislature would have no power to pass a law for the creation of banking institutions without first, submitting the question to the people. It makes that a condition precedent in case they deem it necessary to have banks at all, and I think therefore the section is right as it is.

Mr. BROWN. I differ in opinion with the gentleman as to the proper construction to be given to the section. Section 13 says:

The Legislature shall not have power to create, authorize or incorporate, by any general or special law, any bank or banking power, or privilege, or any institution or corporation having any banking power or privilege whatever, except as provided in section fourteen of this Article.

Section fourteen then goes on to say that "the Legislature may submit," &c. It does not say they shall not have the power to pass a banking law without first submitting it to the people.

Mr. SETZER. If the gentleman will refer to Section thirteen again, he will find that section does prohibit them.

Mr. BROWN. I think the two sections taken together will not bear that construction. Section thirteen says laws may be passed under the provisions of Section fourteen, and Section fourteen says the Legislature may submit the question to the people, but does not say they shall not pass such a law without submitting the question to the people. I think it should be made imperative upon the Legislature to submit the question to the people, and to ascertain that a majority have voted in favor of such a law before they shall have the power to enact it.

Mr. HOLCOMBE. I think the gentleman does not understand what he has read, or at least, I do not understand it as he does. Section thirteen says that no banking power whatever shall be created or authorized by any general or special law. Does not that contain any prohibition? But it says a law may be passed as provided in the next section. The next section gives no such power independent of the people, but permits the Legislature, in their discretion, to submit the question to the people. It does not make it imperative upon the Legislature to take any action upon the subject, but it does make it imperative, if they take action upon the subject, first to submit the question to the people. The gentleman from Sibley, however, moves to strike out the word "may," and insert the word "shall," the effect of which will be to compel the Legislature to submit the question to the people, although it may be their unanimous opinion that no banks are wanted.

Mr. BROWN. I have read over this section on banks carefully,

and my reading of it is, that the Legislature has power, by the 13th and 14th sections, taken in connection with each other, to pass a general banking law, without submitting the matter to the people at all. Now, sir, I am anxious, in submitting this Constitution to the people, to submit it in such a shape that they shall have no doubt whatever as to what was the intention of the Convention in passing every provision. The gentleman says it is the intention of the section that the Legislature shall have no power to pass any banking law until the question has been first submitted to the people, and they have by a majority voted in favor of such a law. Then, why not say so directly? What objection is there to saying it in terms so direct and unequivocal that there shall be no doubt on the subject?

Mr. SETZER. If the gentleman will read the whole section, he will see that his construction is wrong.

Mr. BROWN. I have read it carefully.

Mr. SETZER. It says in section 14, that the Legislature shall have the power, after the people have voted in favor of it. That is the provision contained in section 14. Section 13 says they shall have no such power except as provided in section 14. They are, therefore, absolutely prohibited from passing any such law without first submitting it to the people, and to say again that the question shall be submitted is a repetition and useless.

The amendment was not agreed to.

Mr. STACEY. I move to amend the fourth paragraph of the section by striking out all after the word "liable," and inserting "for "all the debts of such corporation," so that the paragraph, as amended, would read:

The stockholders in every corporation or joint association for banking purposes, issuing bank notes, shall be individually liable for all the debts of such corporatiou.

I believe it is the true doctrine for corporations, and particularly those for banking purposes, that the stockholders shall be individually liable for all the debts of the corporation. In relation to corporations for carrying on great public improvements, it would not be prudent to exact such a condition. But for those issuing bank notes, I believe it is not only prudent, but that it is absolutely necessary, for the protection of the public against fraud. For my part, I am opposed to banks *in toto*, under any circumstances; but if we are to have them at all, it is due to the public who are to receive their currency, that we should afford all the protection in our power against fraud and corruption, such as we

have seen in several instances, in other States, within the last two years.

The amendment was agreed to.

Mr. McGRORTY moved to amend the third paragraph of the section, by striking out the words "U. S. Stocks or State Stocks," and inserting the words "Real Estate."

The amendment was not agreed to.

Mr. CURTIS moved to amend the same paragraph by striking out the words "the same" and inserting "each dollar of such bills "or notes," so that it would read: "for the redemption of each "dollar of such bills or notes in specie."

The amendment was not agreed to.

Mr. BROWN. I move to amend the Section by striking out all after the word "association," where it first occurs in the following paragraph:

4th. In case of the insolvency of any bank or banking association, the billholders thereof shall be entitled to preference in payment over all other creditors of such bank or association.

And to insert in lieu thereof:

The State shall be liable for the redemption of all the notes of said bank.

Mr. CHAIRMAN, I am opposed to the creation of banks in this State, under any circumstances; and I am essentially opposed to the creation of banks for which only the individual stockholders are liable. If the people, under this Section, vote that there shall be banks, I want the billholders secured in the redemption of the bills beyond contingency. I therefore think it is no more than justice to the billholders, that if the State authorizes the issuing of bank notes the State shall be ultimately responsible for their redemption.

Mr. SETZER. I have no objection to the amendment, for the simple reason that after the provision which has been adopted by this Committee, making the stockholders liable for all the debts of the corporation, the whole thing is a nullity; and I am in favor, therefore, of making whatever additional privilege is necessary to enable gentlemen to make political capital out of it.

Mr. BROWN. I call the gentleman to order.

Mr. SETZER. Oh, nothing I have said applies to the gentleman from Sibley. Of course, he never says anything for political capital—not a word for "Buncombe." [Laughter.] But, sir, let the policy which this Committee seems disposed to adopt be made general, and property would immediately fall to about one-tenth the value it bears at the present time. To be sure, after a few years it would rise and find its proper level, but during these few years the reaction would be terrific. Now, sir, believing that in the pre-

sent state of affairs we cannot get along without paper currency, it seems to me better to have a well regulated paper currency in our own State than to import it from abroad. But, sir, the provisions you have already adopted will make the establishment of such a currency in our State impracticable, and I would much rather see the whole Section stricken out than to adopt it in its present shape.

Mr. STACEY. I am in favor of the amendment which has been adopted, and I do not anticipate any such result from it as the remarks of the gentleman from Washington (Mr. CURTIS) would indicate. I believe that capital will seek investment in this State with the restrictions we have placed upon it; and if we are to have banks, I am in favor of placing them upon such a footing that the people may place the utmost confidence in their safety, and be protected to the utmost extent against fraud. Unless this can be accomplished, I am in favor of an absolute prohibition. In regard to the amendment of the gentleman from Sibley (Mr. BROWN), I do not see exactly the effect it is to have. But I am satisfied with the Section as it stands, and I shall therefore vote against the amendment.

Mr. HOLCOMBE. I move to amend the amendment by prefixing to it the words "and each individual stockholder," so that it will read: "In case of the insolvency of any bank or banking associa-" tion, and each individual stockholder, the State shall be liable," &c.

Mr. BROWN. I will accept the amendment. I do not wish the State to become responsible until the means of the stockholders have been exhausted.

Mr. SIBLEY. I am opposed to the amendment simply because I think it will be a very unpopular feature to go before the people with, and further because I consider it entirely unnecessary for the safety of the billholders that there shall be any such provision. Here you have a provision preceding requiring the Legislature to provide ample security in United States stocks or State stocks for the redemption of the same in specie. Now, I want to know what the gentleman wishes more for their redemption? Why, sir, they are required to give security in advance to redeem every dollar of their currency in case they become insolvent. I consider the whole thing entirely unnecessary, and I hope the amendment will be voted down.

Mr. M. E. AMES. I am opposed *in toto* to the amendment originally offered by the gentleman from Sibley, as well as the amendment to the amendment, offered by the Chairman of the Committee (Mr. HOLCOMBE.) The whole thing is entirely superfluous and un-

necessary. We have already provided in this Section that the stockholders shall be individually liable, not only for the redemption of the bills but for all the debts of the corporation. Now, there is a full and complete liability, and a liability, in my opinion,—as the gentleman from Washington (Mr. SETZER) remarked,—to such an extent as will make the whole grant unavailable. Then, why is it necessary to make the stockholders a second time liable, by repeating it at the end of the Section? But, sir, the amendment of the gentleman from Sibley is, in my opinion, wrong in principle, as well as anti-Democratic and anti-Republican in its tendency. I hold that there should be no relations—no affinity whatever, between the State and a banking institution. Such relations did formerly exist; and the question was agitated until it resulted, under the rule of the Democratic party, in a total divorce—a total separation, between all banking and monied monopolies and the Government. It was well stated by the gentleman from Dakota (Mr. SIBLEY), that you have already, by a Constitutional provision, required the Legislature to provide ample security for the redemption of all bank notes in specie, and for the payment of all the indebtedness which may have been incurred by the bank. If they do not secure that end by every safeguard and protection which can be thrown around the community, they do not do their duty. I doubt whether language could be framed, stronger or more explicit to compel them to provide for the absolute safety of the community against the banks. In regard to the amendment, which has been already adopted, on the motion of the gentleman from Freeborn (Mr. STACEY), to which the gentleman from Washington (Mr. SETZER) made objection, I have to say that I think that amendment is right in principle and Democratic in its effect. When you take into consideration the character of the banking institutions in the the country,—and especially in the West, where they are generally composed of not more than three or four individual stockholders,—I can see no possible reason why they should not be made individually liable for all the debts of the bank. But, sir, the amendment of the gentleman from Sibley,—which creates, at least, a pecuniary affinity between the State and the banks,—is wrong in principle, and I hope it will not be adopted.

Mr. BROWN. I cannot see the correctness of the gentleman's position. He says my amendment will have the effect of connecting the State with the banks. I do not so hold. The second condition reported in this Section provides, that "the Legislature shall "provide by law for the registry of all bills or notes issued or put "in circulation as money, and shall require ample security in United

"States stocks or State stocks, for the redemption of the same in "specie." Now, sir, the State, through the Legislature, provides the officers who are to do this registering, and also the officers who are to receive and hold the securities. But suppose such officer should receive as security, stocks which shortly afterwards depreciate in value or become worthless, the officers are not responsible; the banks, if they have become insolvent, cannot pay,—and I say the State should become responsible for the redemption of the bills. But if, as the gentleman says, the security will in all cases be ample, beyond contingency, then the State will never under this amendment be called on to redeem their bills, and the provision can do no harm. If, as the gentleman thinks, there is no possibility that the officers appointed by the State will transcend their duty—

Mr. SIBLEY. The gentleman mistakes my position entirely. I said such a thing was not likely to occur.

Mr. BROWN. Probably not very likely to occur, but still its occurrence is possible. But I hold that if under this Constitution the question is submitted to the people, and the people vote to authorize the creation of banks, if the securities received by the officers appointed for that purpose are not sufficient for the protection of the bill holders, then the State ought to be responsible for the redemption of the bills.

The Convention is now in the consideration of a very important subject—one which ought not to be pressed on us without full deliberation. It is a subject which may effect the welfare of the future State of Minnesota more vitally than all the laws which the Legislature can pass under the Constitution. I, myself, am one of those who hardly know in what school of politics I was raised. That the regulation of the currency of the country was intended to be exclusively under the control of the National Government, and to consist exclusively of specie, by the Constitution of the United States, and by the framers of that instrument, never admitted of a doubt in my mind. But, Sir, for years it has been contended by a great national party in the country that it was right and proper to have a currency independent of that originally intended, and a National Bank was upheld as a Constitutional institution. That question was the bone of contention between the two great National parties for years and years ; and even now, after the institution has been dead and laid out cold for years, they still revive it every now and then.

It has been an ascertained fact that gold and silver are not an adequate currency to meet the emergencies of business, and it has

been at last ascertained by the decision of the highest tribunal in the land that State Banks are Constitutional institutions, and the party which was at one time for a gold and silver currency only, is now for a paper currency; instead of being opposed to even a National Bank, they are for everybody's bank.

It has come to this: all parties are in favor of banks, and for myself, I surrender my own convictions to what seems to be the overwhelming majority of the people and interests in the times in which we live. The almost universal belief which now exists in these institutions, makes it imperative upon every State to make some provision in it Constitution upon this important subject.

It has been objected to by the gentleman from Washington, (Mr. SETZER,) that the amendment of the gentleman from Freeborn, (Mr. STACEY,) which has been adopted by the Committee, would have the effect to render null and void the section under consideration. Why, Sir, it is a provision which is the basis of the banking interests in Rhode Island, and the system of banking in that State is now equal to that of any State in the Union.

Mr. SETZER. There are more broken banks in Rhode Island than in any other State in the Union.

Mr. MEEKER. If there is an unsound bank in that State, I am not aware of it. There is a good deal of currency wherever you go that is not equal to gold and silver, but they have adopted as the great principle of their system what is the only true principle connected with these institutions—that of making the stockholders individually liable to the extent of the stock subscribed.

In regard to the proposition of the gentleman from Sibley, (Mr. BROWN,) to turn the bill holders over to the Treasury of the State of Minnesota, if the banks shall not show sufficient means to redeem their bills, I look upon it both as a novel proposition, and one which is fraught with very great mischief if it should be adopted. What would be the effect of such a provision in the State of Minnesota? In the first place it would give rise to a great number of irresponsible bankers, whose paper is never intended to be redeemed by those who issue it, and who will come straight to the State Treasury to get it redeemed. Look for a moment at the operation of such an amendment as that. Here is a bank, say in the City of Saint Paul, where the Treasury is located, and which would become the center of banking operations. It issues $25,000 or $30,000, and as soon as the notes are returned, goes to the Treasury for their redemption, and the people of the State have to foot the bill. Is such a proposition Democratic? Is it Republican? Is it right?

Mr. CURTIS. I am opposed to the amendment, and to the amendment to the amendment offered by my colleague, (Mr. HOLCOMBE.) I agree with the gentlemen who have spoken, that this is a very important subject. I believe the people of this Territory are in favor of a judicious system of banking, upon ample security. I believe they are in favor of a system by which we shall have our own banks well secured as the basis of our currency, in opposition to flooding our country with worthless trash from abroad. I do not believe there is anything in such a system of banks to contravene the old doctrine of the Democratic party, of no connection between the Government and the banks, because the State is to appoint registers, receivers, and the necessary officers for the protection of the people. I cannot agree with the gentleman from Sibley, that the appointment of such officers, and such a connection with the banks renders the State liable, in case of the insolvency of the bankers, nor do I believe the people of the State are in favor of going this length. They wish to have a well secured banking system and they wish to have it secured by State or other safe stocks. In my opinion, when you have come to the point that you make the people ultimately liable for the debts of these corporations, you have added the ounce that will break the camel's back. You will have deprived the State of Minnesota of any practicable system of banking at all.

Mr. HOLCOMBE. I wish to make two or three remarks upon this subject, before the vote is taken on the amendment. In the first place, I wish to say that individually, I am opposed to the creation of banks at all. But we are forced into the position either to establish our own banks, or to admit and use as a currency, the bank bills which are flooded in upon us from abroad. I ask any man here, whether he is in favor of a specie currency or not, if in his ordinary business transactions, he does not receive as currency the bills of banks which are received in the community as such. Is there a man here who demands specie in his business transactions? It strikes me that the only safe alternative we have left, is to create our own banks, and I ask gentlemen if it is not Democratic doctrine; that if the people of the State decide by a vote that they want banks, they shall have them?

That was the view taken by the Committee in reporting this Section, and since the adoption of the amendment offered by the gentleman from Freeborn, making the stockholders individually liable, I do not think that with a reasonable precaution, a state of things can ever occur, when the currency of our banks cannot be converted into specie at any time.

In reference to the amendment which I suggested to the amendment of the gentleman from Sibley, to introduce the individual liability of the stockholders, as that has been already provided for by an amendment which has been adopted, it will only be a repetition to insert it again here.

Mr. SETZER. Several gentlemen have alluded in debate, to my remarks upon the amendment offered by the gentleman from Freeborn, and great praise has been taken for the wholesome effect which is to follow the adoption of that amendment. Why sir, the only effect which the adoption of that amendment can have, will be to keep honest men out of the banks, and to admit rogues. The only security the billholder has is, the State and United States stocks furnished, and the banker who is a dishonest man will, the moment funds have accumulated in the bank to a sufficient amount, made over his stock to a man who does not own a cent of property, and withdraws from all liability in the matter. I appeal to the good sense of this Convention, to say what will be the effect of such a proposition. Suppose a man invests two or three thousand dollars in the purchase of shares in the stock of some bank, established under these regulations. The management of the bank changes hands. It goes off into wild speculations. He begins to suspect that the bank is not safe, and that for two or three thousand dollars which he has invested, he may become individually liable for the debts of the concern, over which he can have no control, to the amount of perhaps hundreds of thousands of dollars. He withdraws his interest from the bank, other responsible men do the same, and it is left with only worthless or dishonest men to manage the concern and remain individually liable.

Sir, I ask again, what is this amendment to accomplish? It may drive honest men to commit fraud, but it will not secure a single dollar for the billholder. So long as each stockholder is liable only for twice the amount of stock subscribed or held by him, he will, if he is an honorable man, not shrink from the responsibility he has incurred, but if he is to be responsible for the entire liabilities of the whole concern, over which he has no control, he will of course sell or transfer his stock when he finds the bank is going by the board, and the billholders will get no security.

The amendment to the amendment was not agreed to.

The amendment was also rejected.

Mr. A. E. AMES. I move to amend Section 14, by striking out all after the word "power," in the fifth line, and insert in lieu thereof, the following: "to grant Bank Charters, or to pass a "General Banking Law, with such restrictions and under such

"regulations as they may deem expedient and proper for the secu-"rity of the bill holders."

I do not like to detain the Convention by any remarks, but it is very evident to my mind, that we are putting too much legislation into our Constitution. I do not think we can adopt a safer or better system of banking, than is in existence in the State of Wisconsin, and I have copied my amendment almost *verbatim et literatim* from the Constitution of that State.

Mr. HOLCOMBE. I move to amend the amendment, by striking from it the words : "to grant Bank Charters."

The amendment to the amendment was not agreed to.

Mr. HOLCOMBE. The amendment as it now stands, leaves the whole matter in the hands of the Legislature. Now, I think it is imperative on us, to provide by Constitutional provision, for the safety of the Currency, and I hope the amendment will not be adopted.

The amendment was not adopted.

Mr. SIBLEY moved to amend Section 14, by inserting in the thirteenth line, after the word "specie," the following: "and in "case of a depreciation of said stocks, or any part thereof, to the "amount of ten per cent. on the dollar, the bank or banks owning "said stocks shall be required to make up said deficiency by "depositing additional stocks."

Mr. BROWN moved to amend the amendment by striking out the words "to the amount of ten per cent. on the dollar."

Mr. SIBLEY. The reason why I put in the ten per cent. was, that during the various fluctuations of the stock market, the price of stocks may depreciate, perhaps, to the extent of one per cent. one day, and rise that amount the next, and I do not think it is proper to require the banks to deposit additional securities to cover such comparatively unimportant fluctuations; but when such stocks have depreciated in the market to such an extent as to effect seriously the security of the holders of bank notes, then the protection of the public requires that the banks shall deposit additional securities to the amount of the depreciation. If the gentleman thinks ten per cent. is too large a margin, I have no objection that it should be made five per cent., but I am opposed to requiring the banks to provide for the every-day fluctuations in the market.

Mr. BROWN. I hold that the bill holders should always be secured, and I do not care if the depreciation is but a quarter of one per cent., the loss in a million dollars is a very considerable amount, and the bill holders have a right to be secured from it.

Mr. HOLCOMBE. I think the amendment offered by the gentleman from Dakota, (Mr. SIBLEY,) is a very wise one. The stock-jobbers have it within their power, upon their own motion, to change the value of stocks in the market to a certain extent, and whenever they have depreciated to as much as ten per cent., it is but just to the community that the banks should be required to deposit additional stocks to that amount.

Mr. SETZER. I do not exactly see the object of the amendment unless it is to break down the banks, and thereby depreciate the value of paper currency. I may be old fogyish in my opinions. If so, it is my misfortune, but let us see how this amendment will work, if it is adopted. A bank deposits in the hands of the Auditor of State, or whatever officer may be appointed for that purpose, securities to the amount of the notes issued. The gentleman from Washington, (Mr. HOLCOMBE,) has informed us that the stock-jobbers may, of their own motion, depreciate stocks to the amount of ten per cent. Now, sir, the bank may not have on hand at the moment the requisite amount of additional securities. If not, of course it must fail. The stock already deposited will be forced into market, and the bill holders will suffer; while if the bank had been left alone, in two or three weeks the stocks would rise again and the bill holders would be secured.

Mr. HOLCOMBE. It is well known that the paper of three or four of the Illinois banks last year, depreciated fifty per cent. in consequence of having been secured by California State stocks, which, in consequence of the decision made by the Courts of that State in respect to their redemption, fell more than fifty per cent. in the market. Of course the paper of the banks which were operating upon these stocks as securities, fell in about the same proportion. Many of those holding the bills of these banks, cognizant of the circumstances connected with the California stocks, held on to the bills, and as the stocks, in consequence of recent developements in that State, have again risen to about par, the bill holders are, of course, safe. Now, if these banks, when the depreciation took place, had been required to deposit additional securities to the amount of the depreciation, their bills would have remained at par and no inconvenience or loss would have occurred to the bill holders. I think the amendment is a wise one, and I hope it will be adopted.

The amendment to the amendment was rejected.

Mr. SETZER. I move to amend the amendment by inserting after the words "State stocks," the following: "And no banking "corporation shall issue a greater amount of currency than two-

"thirds of the par value of the securities deposited by such cor-
"poration."

I think such a provision would be wiser than to require the bank to pay in afterwards to make up a depreciation.

Mr. SIBLEY. I am opposed to that amendment. If we are to have any banks at all under a general banking law, we ought not to ask them to deposit capital to the amount of one-third above that which they are allowed to issue in bills. It appears to me that you can never get a single corporation to form under such a law. Why, sir, you are requiring banking corporations to dispense with one-third of their capital. If the gentleman wants to kill the banks effectually, he has taken the right way to do it. For myself, I am opposed *in toto* to banks, but if the people will have banks—and I believe the majority of them are in favor of them—I am in favor of establishing them upon some safe principle. It seems to me, that when you have required them to deposit ample security, in the first place, and have still further made the stockholders individually responsible—when you have secured every body except the stockholders, you ought to be satisfied, and not impose this tremendous additional restriction upon them. I think my amendment secures the bill holders against any possible emergency, and that is all that is required.

Mr. HOLCOMBE. There is another consideration which it seems to me is entitled to some weight: the Section requires the Legislature and the Comptroller of the State to see that ample security is deposited. Now, that officer will of course, discriminate in his own mind as to the nature of the securities offered, and as to what is their value; in order to make the security ample, I have no doubt he will fix the rate of valuation at a point which will cover the fluctuations of the market of five or ten per cent. I think there is some force in that expression "ample security," and that it will cover any difficulty which the amendment is intended to remedy.

Mr. SETZER. The argument of the gentleman is very correct, but he seems to forget that we have been here legislating upon this subject for the last two hours. It is very proper to require that ample security shall be given and then leave the whole matter in the hands of the Legislature. Everything else we have sought to engraft upon the section is simply legislation and nothing else —which matter should never be introduced into the Constitution of a State. The gentleman from Dakota (Mr. SIBLEY) seems to think I am afraid of Banks and that I am seeking to incorporate some provision which shall have the effect of nullifying any authority which may be given for their creation. Now, sir, the amendments

which the Convention has already adopted will practically nullify any such authority, and in respect to the amendment which the gentleman has offered, if either is to prevail, I say that mine is much the most favorable to the banks. It would be much better to require them to deposit stocks in the first place, to a sufficient amount to cover any fluctuation which may take place in the market, than to require them to be continually changing the securities deposited to meet such fluctuations.

The amendment to the amendment was not agreed to.

The amendment was adopted.

Mr. MURRAY moved to amend Section fourteen by striking out all after the word "may," in the first line, and insert in lieu thereof the following: "by a two-third vote pass a General Banking Law."

Mr. GORMAN. I desire to say one word before this question is finally disposed. I should prefer to say it in caucus but I will right here. Of all the calamities that can befall the Democratic party, the submission of this question to the people is the worst. The thing has been tried in Ohio and in Indiana, and the effect has been as it will be here, if we adopt that course, to split the Democratic party in twain. The question of Banks or no Banks divided the party in those States for years, and election after election has been carried by the opposition in consequence.

Now, sir, I am in favor of the amendment which my colleague has offered. The people seem to have determined that they will have Banks, and I say, leave it to the Legislature, by a two-third vote, to determine. Every thing which we have incorporated in this section is simply legislation, and ought, and in my opinion, may safely be intrusted to the Legislature. If they act wisely, the people will sustain them. If they act unwisely the people will send men there who will correct the evils of legislation. There is no danger, in my opinion, in trusting the whole matter in the hands of this great popular power. It is certainly better to take the chances than for us to undertake to make it the issue of a popular vote, for I repeat, I could not implore a greater calamity upon the political party to which we all are affianced, than to go into such a canvass before the people. The opposition will combine with that portion of the Democratic party which is in favor of authorizing the largest issue of bank paper, and the party will never be able to act harmoniously while the question continues to be agitated. If we want to pass a Banking Law, I say, therefore, we had better authorize the Legislature to pass such a law.

The amendment was agreed to.

Mr. EMMETT moved to amend the 14th Section, as amended, by adding thereto the four original restrictions, with the amendment of Mr. SIBLEY, together with the following as a fifth restriction:

Fifth, No bank or association created or established under the provisions of this article shall have power to sell, transfer, or in any manner negotiate any bill, note, or other security, discounted by or given to said bank or association.

Mr. E. said: I do not propose to make a speech upon the subject of banks. No remarks I could make would throw any new light upon that subject, for the subject has been discussed perhaps more than any other in the Territory for the last five years. I believe this Convention is in favor of banks under certain restrictions. For myself, as a member of the Democratic party, and as a citizen of Minnesota, I am opposed to banks in any form in which they can be created, but if we are to have them, for God's sake let us have them subject to such restrictions as will protect the community to some extent from fraud and reckless speculation on their part. Under the Section, as it now stands, with the amendment adopted on the motion of my colleague, (Mr. GORMAN,) the first Legislature which sits under our State Government may inundate the State with banks established in every County and Precinct from Lake Superior to the Iowa line, and afterwards they will come here with their vested rights, and there is no remedy. We must place some sort of restriction upon the subject of banking. If we are going to authorize the passage of a general banking law, let us do it in so many words, and if we intend that restrictions shall be placed upon the Legislature in the passage of such a law, let us have the manliness and courage to say so. I for one am willing and ready to stand up here and vote against banks in every form, but if I am overruled, then I am ready—and I shall insist upon it to the extent of my ability—to place upon the system every restriction that is consistent with the idea of banking at all. If we are going to have banks at all, I am not in favor of restricting them to an extent that will prevent them from doing business, but I am in favor of placing all necessary restrictions upon them.

Now, Sir, I think the report as it came from the hands of the Committee, was precisely right, with the exception of submitting the question to the people. I think the question can as well be determined here as before the people, and I want the Convention to stand up to the mark and decide whether we are to have banks or not. And if the decision is affirmative, then I want the Convention to take the further responsibility of saying what restrictions the Legislature shall place upon them. This leaving all re-

sponsibility upon the subject to the Legislature, is, if I may be allowed the expression, a species of cowardice which I, as a member of the Convention, am not willing to rest under.

As to the fifth restriction which I have proposed, depriving the banks of the power to sell or negotiate any security which they may have deposited, I think it is a necessary precaution for the protection of the bill holders. It will prevent the banks from disposing of their assets which are provided to secure the payment of their liabilities. Now, Sir, I hope the members of this Convention, as Democrats, will come up and take the responsibility of voting against banks in every shape. But if they determine to authorize them, then let us have all proper restrictions thrown around them.

Mr. SETZER. I am opposed to these restrictions, simply because we have no right to legislate here in this Convention, no matter how cowardly the gentleman may consider it. I hold that it is the right of the people to determine this matter for themselves through their Representatives elected to the Legislature upon that issue, and responsible directly to the people for their conduct. If they, by a two-thirds vote, establish banking laws contrary to the wishes of the people, another Legislature will be elected which will repeal them. It seems to me to be assuming a great deal to ourselves to suppose that we monopolize all the honor and virtue and honesty there is afloat in the Territory or future State of Minnesota. If two-thirds of the members elected by the people to the Legislature are not willing to protect the bill holders, then in my opinion the people will provide for their own protection.

Mr. EMMETT. The gentleman is neither my colleague, nor am I his constituent; but sir, I think the consistency the gentleman manifests, upon this floor, is a fair subject of remark. Now sir, it may be very consistent with that gentleman's views, according to his definition of the term, for a man to be opposed to banks altogether, and yet not only vote for them, but vote for them without restriction.

Mr. SETZER. I am not opposed to banks; I am in favor of them.

Mr. EMMETT. Then I humbly beg the gentleman's pardon. In that case, of course, my remarks did not apply to him at all.

Mr. HOLCOMBE. I wish to say one word in regard to the restrictions which should be placed in our Constitution upon this subject. Every gentleman knows the importance of having proper and uniform restrictions upon the subject of Banks, and every man knows how little the Legislature is to be relied upon for the incorporation of a permanent provision into any law, and what tempta-

tions are held out to grant special privileges. Now, while I hold that my colleague, (Mr. SETZER,) is right, as a general rule, in saying that no legislation should be incorporated into the Constitution, yet I hold that this is one instance in which an exception should be made.

Now sir, I think the additional restriction which the gentleman from Ramsey, (Mr. EMMETT,) has proposed, is an important one, and will add very greatly to the security of the bill holders, because if the banks are not allowed to dispose of the securities which they deposit, the bill holders may rely upon them as so many assets to be applied for the redemption of the bills, if it should become necessary to use them. I am satisfied with the action of the Committee in adopting the amendment, which leaves the matter to a two-thirds vote of the Legislature instead of submitting the question of the establishment of banks to the people. Indeed I am not sure that the provision is not a better one than that reported by the Committee. I think it would be easier to get a majority of the people for a banking law than a two-thirds vote of the Legislature. I am, as far as I am concerned, in favor of adopting as stringent measures in reference to the banks as possible.

Mr. SIBLEY. I propose the following as a sixth restriction, which, I hope the gentleman will accept as a part of his amendment.

Sixth, Any General Banking Law which may be passed in accordance with this section shall provide for recording the names of all stockholders in such corporations, the amount of stock held by each, the time of transfer, and to whom.

Mr. EMMETT. I will accept that as a part of my amendment. I have one remark to make in reference to the objection which has been raised against this amendment, that it is legislating in the Constitution. While I believe that, as a general rule, this Convention ought not to legislate, yet I hold that it is not only proper, but incumbent upon us to impose such restrictions as shall restrain the Legislature from making improper enactments. But if gentlemen intend to carry out strictly, the principle of no legislation in the Constitution, they cannot stop here, for the same objection may be raised against every Article which has been reported except perhaps that of the Bill of Rights and that on the Name and Boundary of the State. If that be true in every instance, why is the objection applied specially to this case? We are here, as I said before, for the express purpose of curbing the Legislature, and if ever the Legislative body in any State needs curbing in any particular, it is on the subject of currency and on the subject of

banks. It is a subject which has divided the American people for the last ten or fifteen years, but I believe they have very generally settled down in favor of banks well restricted. Now sir, if we cannot help the circulation of bank notes even if we do, not have banks of our own, it may be better for us to secure a well regulated bank currency in Minnesota, than to be flooded with the currency of other States. But, sir, if authority is given to the Legislature to pass a general banking law, it should only be subject to the most rigid restrictions; otherwise the Legislature may, at its first session, flood the State with bank charters, and then we shall have no remedy for they will come here with their vested rights. I say again, that if we are to have banks, let us have them under proper regulations and restrictions.

Mr. CURTIS called for a division of the question upon the several restrictions contained in the amendment.

The question was taken upon each separately, and the several restrictions, with the exception of the fifth, were adopted.

Mr. SHERBURNE. I hope the Committee will allow me a single remark. I agree with the gentleman who proposed these restrictions, that it is a matter of importance now, in the commencement of our State Government, that we should place proper and due guards upon banking privileges. I am willing to state that there is but little to hope from the banks; but, sir, the people demand them and they will have them. But while it is proper to restrict them as closely as possible, we ought, nevertheless, to give them power sufficient to discharge their duties. I will confess that upon reading this fifth restriction, I am not able to see how far it may interfere with the legitimate transactions of the banks. I know of my own experience, that paper is transferred between Boston, New York and Philadelphia, almost every day. It is the constant practice of all the banks and I confess I can see no reason why we should not afford our banks these facilities which have been found necessary for the transaction of business. My own opinion is that such a restriction will prevent the operation of the banks at all. No man can afford to take a bank charter under it. I am in favor of imposing all restrictions, as far as we can, to protect the bill holders and the public against banking corporations, but I believe this is imposing a restriction upon the necessary business which will prevent them from discharging their ordinary business transactions.

Mr. EMMETT. I will say to the gentleman, that the system of banking in Ohio contains the same restrictions, and they find no difficulty in banking under it.

Mr. SHERBURNE. I have had no practice under the Constitution of Ohio, but it certainly is not contained in any Constitution with which I am familiar, and I think we had better not adopt it into ours.

The fifth restriction was rejected.

On motion of Mr. GORMAN, the Committee rose, reported the Article back with amendments, and asked concurrence of the Convention therein.

On motion of Mr. GORMAN, the previous question was ordered.

On motion of Mr. GORMAN, the Convention adjourned.

TWENTY-SIXTH DAY.

WEDNESDAY, August 12, 1857.

The Convention met at 9 o'clock A. M.

Prayer by the Chaplain.

The Journal of yesterday was read and approved.

ASSISTANT SECRETARY.

On motion of Mr. KINGSBURY, Mr. SAMUEL SELBY was elected Assistant Secretary of the Convention, vice Mr. GOSSOWAY, declined.

Mr. SELBY then appeared and was sworn in.

ENGROSSED ARTICLE.

Mr. A. E. AMES submitted the following report:

Your Committee on Enrollment report, as correctly engrossed, the following named Article, to wit: Executive Department.

A. E. AMES, Chairman.

FINANCES OF THE STATE, ETC.

The business first in order being upon concurring in the amendments of the Committee of the Whole to the report of the Committee on Finances of the State, Banks and Banking, and the yeas and nays being called for and ordered thereon, there were yeas 18, nays 21, as follows:

YEAS.—Messrs. Barrett, Bailly, Curtis, Davis, Gorman, Holcombe, Kingsbury, Leonard, McGrorty, McMahan, Norris, Nash, Prince, Setzer, Sanderson, Stacey, Tenvoorde and Warner—18.

NAYS.—Messrs. A. E. Ames, Butler, Becker, Burwell, Brown, Baasen, Cantell, Day, Faber, Gilman, Jerome, Kennedy, Keegan, Lashelle, Meeker, Rolette, Streeter, Tuttle, Vasseur, Wait and Mr. President—21.

So the amendments of the Committee of the Whole were not concurred in.

Mr. SETZER moved that there be a call of the Convention.

The motion was not agreed to.

Mr. MURRAY moved the previous question on the adoption of the Article.

The previous question was not ordered.

Mr. BECKER moved to amend Section 2d by inserting in the second line after the words "estimated expenses," the words "of the State," so as to make it read:

"The Legislature shall provide for an annual tax sufficient to defray the estimated expenses of the State for the ensuing year," &c.

The amendment was agreed to.

Mr. BECKER moved further to amend the Section by inserting in the 3d line, before the word "expenses," the words "such ordinary," so as to make the clause read:

"And whenever it shall happen that such ordinary expenses of the State for any year shall exceed the income," &c.

Mr. SETZER raised the point of order, that the amendment having just been voted down as a part of the report of the Committee of the Whole, was not in order.

The PRESIDENT decided that, inasmuch as the amendments of the Committee of the Whole were voted on in gross, it was in order to offer them again separately.

Mr. SETZER appealed from the decision of the Chair.

The decision of the Chair was sustained.

The amendment was adopted.

Mr. CURTIS moved to amend by inserting in the sixth line of Section 3, after the word "churches," the words "Church property used for religious purposes and houses of public worship."

Which amendment was adopted.

Mr. A. E. AMES moved to amend ninth line of Section 3, by striking out "may by general laws," and insert the word "shall."

Which amendment was adopted.

Mr. M'GRORTY moved to amend the fourth line of Section 3, after the words "public school houses," by inserting the words "public hospitals."

Which amendment was adopted.

Mr. CURTIS moved to strike out of Section 4, in the fifth line, the words "be on," and insert the words "be subject to."

Which amendment was adopted.

Mr. MURRAY moved to strike out the words "without deduction" in the following Section:

SEC. 4. Laws shall be passed for taxing the notes and bills discounted or purchased, moneys loaned, and all other property, effects or dues of every description, (without deduction,) of all banks; and of all Bankers, so that all property employed in banking shall always be on a burden of taxation equal to that imposed on the property of individuals.

Mr. HOLCOMBE. The gentleman inquired yesterday what that meant. I will state that it is known that there are a great many banks which receive bills at a discount, and the object is that these bills shall be taxed at their full value.

Mr. MURRAY. The Section, I think, is copied from the Constitution of Ohio, and the provision, I apprehend, cannot be found in any other Constitution. It is a provision which has driven out almost all the banking capital from that State. The effect is to tax the banks, not only for their credits, their money and their assets, but their liabilities also. It is a very extraordinary provision and has given rise to much difficulty in that State. I hope we shall not adopt it into our Constitution.

Mr. WARNER. I entirely agree with the gentleman from Ramsey, that these words should be stricken out of the Section. They have given rise to stronger feeling against the Democracy of Ohio than any other thing has ever done. Various plans have been resorted to to evade the provision of that State. It has always worked badly, and I hope we shall not adopt it.

The amendment was adopted.

Mr. CURTIS moved to amend Section 5 by striking out the word "house," and insert "each branch of the Legislature."

The amendment was agreed to.

Mr. BECKER moved to amend Sec. 5, third line, by striking out the words "singly nor."

The motion was agreed to.

Mr. PRINCE moved to amend Sec. 5, eleventh line, by striking out the word "seven," and insert "ten."

The motion was agreed to.

Mr. PRINCE moved to amend Sec. 6, third line, by inserting the word "ten" in lieu of "seven."

The motion was agreed to.

Mr. A. E. AMES moved to amend Sec. 6 in line five, after the word "sold," by inserting the words "by the State."

The amendment was adopted.

Mr. MURRAY moved to strike out Sec. 13 entirely.

The motion was agreed to.

Mr. STREETER moved to amend Sec. 14 by striking out the word "may," in the first line, and insert the word "shall," so as to make it read:

"The Legislature shall submit to the voters at any general election the question of Bank or no Bank," &c.

Mr. MURRAY moved to amend the amendment by striking out Sec. 14, and insert as follows:

Sec. 14. The Legislature may, by a two-thirds vote, pass a general Banking law, with the following restrictions and requirements, viz:

[The restrictions are the same as those adopted in Committee of the Whole.]

Mr. STREETER. I hope that amendment will not be adopted. I believe it is taking from the people, to a certain extent, the right to govern and to regulate their own domestic affairs. The amendment, in substance, amounts to this: It gives the Legislature power to impose upon the people of the State, banks without their consent. Now, sir, I hold it to be a Democratic principle well established—a principle that lies at the very foundation of our Republican institutions—that the people should be allowed to regulate, to a certain extent, their own pecuniary interests. The gentleman from Ramsey, (Mr. GORMAN,) yesterday intimated to the Convention that we should expose the Democratic party to the greatest calamity that could befal them by submitting this question to the people. Mr. PRESIDENT, I apprehend no such result. I have all confidence in the integrity of the people of this State. I believe the amendment offered by the gentleman from the County of Ramsey is giving a control, which legitimately belongs to the people, to a monied aristocracy. I ask gentlemen here if it is not wiser to control the Legislature, and by doing so to carry out a wholesome banking system, than it is to control the masses of the people. That principle was adopted in the Constitution of the State of Wisconsin, and in the first election, when it was submitted to the people, there was no such division in the Democracy, between the hards and the softs, as the gentleman from Ramsey has portrayed. At that election, a Democratic Governor was elected, and Wisconsin was a Democratic State, notwithstanding that the Democratic party were called on to decide on the question of Banks or no Banks.

Mr. MURRAY. I do not wish to take up the time of the Convention, but, sir, I had always supposed that the Legislature was the embodiment of the wishes of the people themselves, and when my friend talks of my amendment taking the power out of the hands of the people, I apprehend his position is not a correct one. I apprehend there is a greater restriction thrown around the Legislature, in connection with the banking system in the fact that if they do not carry out the will of the people, they will not be re-elected, than we can impose upon the system in any other way.

On motion of Mr. STREETER, the yeas and nays were ordered on the amendment, and being taken, the result was yeas 31, and nays 10, as follows:

YEAS—Messrs. A. E. Ames, M. E. Ames, Butler, Becker, Burns, Burwell, Bailly, Brown, Baasen, Curtis, Chase, Davis, Emmett, Faber, Flandrau, Gorman, Holcombe, Kingsbury, Kennedy, Keegan, Leonard, Murray, Meeker, McGrorty, McFetridge, McMahan, Norris, Nash, Prince, Sanderson, Tuttle, and Wait—31.

NAYS—Messrs. Baker, Barrett, Day, Gilman, Lashelle, Stacey, Streeter, Tenvoorde, Warner, and Mr. President—10.

So the amendment to the amendment was adopted.

Mr. MURRAY moved to amend the amendment by inserting in the thirteenth line, after the word "specie," the following: "and "in case of a depreciation of said stocks, or any part thereof, to "the amouut of ten per cent. or more on the dollar, the bank or "banks owning said stocks, shall be required to make up said "deficiency by depositing additional stocks."

The amendment was adopted.

Mr. STACEY moved to amend by striking out in the 14th Section, all after the word "liable" in the seventeenth line, and insert the words, "for all debts of such Corporation."

The amendment was adopted.

The Article was then ordered to be engrossed.

On motion of Mr. BECKER, Mr. SHERBURNE was excused from attendance this day.

ABSENT MEMBERS.

On motion of Mr. GORMAM, by unanimous consent, the following resolution was received and adopted:

RESOLVED, That the Sergeant-at-Arms report each member of this Convention in his seat at the earliest day possible.

PROPOSITION OF THE REPUBLICANS.

The PRESIDENT laid before the Convention the following communication:

CONSTITUTIONAL CONVENTION, HALL OF THE HOUSE OF REPRESENTATIVES,
ST. PAUL, August 11th, 1857.

Hon. H. H. SIBLEY,

Presiding officer of that portion of the Delegates to the Constitutional Convention assembled in the Council Chamber of this Capitol,

SIR:—The Constitutional Convention assembled in the Hall of the House of Representatives have this day passed the following resolution, viz:

"RESOLVED, That the Secretary of this Convention is hereby directed to communicate to the presiding officer of that portion of the Delegates to the Constitutional Convention assembled in the Council Chamber of this Capitol an

attested copy of the Preamble and Resolutions in reference to a Committee on Conference adopted on the 10th inst., and the official action of this Convention thereon."

I have therefore the honor to communicate the enclosed attested Preamble and Resolution as the same passed this body on the 10th instant.

Respectfully,
L. A. BABCOCK,
Secretary of the Convention.

PREAMBLE AND RESOLUTIONS.

"WHEREAS, The persons who were elected by the people of this Territory to represent them in a Constitutional Convention, having met at this Capitol on the day appointed by law for such meeting, and having disagreed upon some questions which arose in the course of forming a temporary organization, separated and formed two distinct Conventions in numbers nearly equal, and are now forming two separate and distinct Constitutions to be presented to the people. And

WHEREAS, Proceedings so extraordinary in their character will have a tendency to injure the reputation of our people—to lessen the confidence of the other States in our integrity, stability, and patriotism, and place us in a false position before the world, therefore

"RESOLVED, That a Committee of Five be appointed by the President of this Cenvention to confer with a Committee of an equal number if appointed of duly elected members of that portion of them who are acting separately from us, and that it shall be the duty of such Committee to consider and agree upon, if practicable, and report some plan by which the two bodies can unite upon a single Constitution to be submitted to the people."

On motion of Mr. BROWN, the communication was referred to a Select Committee of Five consisting of the following members: Messrs. GORMAN, SETZER, BROWN, HOLCOMBE, and KINGSBURY.

ELECTIVE FRANCHISE.

On motion of Mr. MURRAY, the Convention resolved itself into Committee of the Whole, on the report of the Committee on the Elective Franchise, (Mr. KINGSBURY in the Chair.)

The following is the report:

ELECTIVE FRANCHISE.

SECTION 1. Every male person of the age of twenty one years or upwards, belonging to either of the following classes, who shall have resided in this State for six months next preceding any election, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, for all officers that now are, or hereafter may be, elective by the people:

1st. White citizens of the United States.

2d. White persons of foreign birth, who shall have declared their intention to become citizens, conformably to the laws of the United States upon the subject of naturalization.

3d. Persons of Indian blood, and persons of mixed white and Indian blood, who have adopted the customs and habits of civilization.

SEC. 2. No person not belonging to one of the classes specified in the preceding section; no person who has been convicted of treason or felony, unless restored to civil rights, and no person under guardianship, *non compos mentis*, or insane, shall be entitled or permitted to vote at any election in this State.

SEC. 3. For the purpose of voting, no person shall be deemed to have lost a residence by reason of his absence while employed in the service of the United States; nor while engaged upon the waters of this State, or of the United States; nor while a student of any Seminary of learning; nor while kept at any alms-house or other asylum; nor while confined in any public prison.

SEC. 4. No soldier, seaman or marine in the Army or Navy of the United States, shall be deemed a resident of this State in consequence of being stationed within the same.

SEC. 5. During the day on which any election shall be held, no civil process shall be served on any person entitled to vote at such election.

SEC. 6. All elections shall be by ballot, except for such town officers as may be directed by law to be otherwise chosen.

Sec. 7. All persons designated in Section 1 of this article, who shall be inhabitants of this State, shall be entitled to vote at any election to be held upon the day, that this Constitution shall be submitted to the people for its ratification or acceptance.

SEC. 8. Every person who, by the provisions of this article shall be entitled to vote at any election, shall be eligible to any office which now is, or hereafter shall be, elective by the people in the district wherein he shall have resided thirty days previous to such election.

Mr. CURTIS. The Committee in reporting the first section of this Article, neglected to designate any time for which the voter shall have been a resident of his election district. I move to amend by striking out the word "be" and inserting the words "have been for ten days," so to make it read "shall be entitled to vote at "such election."

Mr. FLANDRAU. I move to amend by adding to the first paragraph of the section the following:

"For such district; but this section shall not be construed to prevent a person legally qualified to vote, or from voting for a State officer or District officer in any part of the State or District of which he shall be an inhabitant."

Mr. EMMETT. I hope this amendment will not prevail. My experience has been such as to convince me that the principle is wrong. We had just such an election law in Ohio, and very many frauds were perpetrated under it. I think every man ought to be required to vote in his own precinct, where he is known. He has no business away from home on the day of election. If you confine him to his own precinct, he has no opportunity of voting but once, but if he is allowed to vote in the adjoining county or towns, he may go from one precinct to another and vote several times at the same election. As I said before, you will put it in the power of any man to commit enormous frauds. The very provision itself is suggest-

ive of pipe-laying. The voters of this precinct may traverse all the precincts in the county and vote at every one, and if they swear they have not voted before, nobody can prevent them. It is true, that if a man happens to be necessarily away from home, he ought to be allowed to vote if within the district, but the advantage would be more than counterbalanced by the frauds which would be committed if such a rule were adopted.

Mr. MEEKER. The gentleman is certainly correct in the position which he assumes. If persons are allowed to vote anywhere they may see proper in the State, for Governor, Chief Justice and other State officers to be chosen by the people, it will always happen that there will be double and treble voting. But the evil has been guarded against in other States by the enactment of penal laws against those who do vote more than once. It is a matter of very great convenience, especially to business men, that they should be permitted to vote anywhere in the district for which the officer is to be elected. It would be a very great inconvenience for every business man, in this locomotive age, to be required to vote for general officers within the single precinct in which he may reside. I think the evil can be effectually guarded against by severe penal laws, on the subject of double voting.

Mr. TUTTLE. I propose to remedy the difficulty apprehended under the amendment of the gentleman from Nicollet, by compelling each person to record his name.

Mr. FLANDRAU. That is to be done under the present state of things. I shall not urge the amendment, nor shall I withdraw it. I shall not urge it because I really think myself that it opens the door for greater frauds than could be practiced under a system requiring ten days residence in the precinct where the person votes. Our people are of such a migratory character that I am not sure the provision would be a wise one.

The amendment was not agreed to.

Mr. EMMETT. I move to strike out the word "six" in the third line of section one, and insert "four," so as to require a residence of only four months in the State to entitle a person to vote. My reasons are these, the law, as it now stands, is precisely the same as that proposed in this section and is equivalent to a twelve months' residence. Our elections are held as early in the fall as convenient, and there is not one emigrant in five hundred coming to the territory in the spring who is enabled to vote under that law. There is not one year in three that a boat arrives here in the spring six months before the election, and steamboat travelling is so unsafe at the early period that very few emigrants come until

later. If a four months' residence is not sufficiently long, I should prefer a year, so that people will not be induced to commit frauds. Any man who has not lived in St. Paul, and I suppose Stillwater, will be surprised when the election comes off to see how many emigrants came in that first boat.

Mr. CURTIS. I hope the gentleman will except Stillwater. We do not have such proceedings there.

Mr. EMMETT. Then it is a better town than it has the credit of being. But, sir, I speak in reference to St. Paul what I do know. Those who come late in April are not entitled to vote under the present law until the fall of the next year, and if you were to fix the residence at fourteen months there would be much less fraud and perjury committed than now. In my opinion, people are just as much entitled to vote after a four months' residence as they are after being here twelve or eighteen months. Any man who comes here with the intention to make this his residence is as well qualified to vote at once as at any future time, and by making the change I have suggested we shall enable a great many men to express their preference at elections who really should be entitled to have a voice in our affairs.

Mr. CURTIS. I am opposed to the amendment for the very reasons which the gentleman has urged in its support. If you make the residence feur months those who come here within that time have just the same inducements to commit perjury as if the time was six months. The reasoning of the gentleman would apply equally well to two months or any other time. It is urged as an objection already that the time mentioned in the report is too short, and if it is cut down to four mouths for the purpose of letting in a particular class of voters, the thing is too palpable on its face. This Convention do not want to legislate for a particular class of people coming here at a particular time in the spring. If that is the object, I apprehend that those coming in the summer are just as much entitled to vote as those coming in the spring.

Mr. FLANDRAU. I would like to make another suggestion. The second clause of this section gives the right of voting to all persons who have declared their intention to become citizens of the United States, if they have been within the State six months. Now, gentlemen may not have observed the fact that a man emigrating from Europe may be qualified to vote in this State by a six months' residence in the United States. That is certainly not a sufficient time. It is a very considerable departure from anyting I have ever known in any State in the Union. But if you reduce

the time to four months, then a man coming from Europe may vote in four months after declaring his intention.

Mr. EMMETT. I do not think they will go to work and qualify themselves in six months. I do not know that they require a longer residence than persons coming here from another State. They come here with the necessary qualifications in respect to Republican principles, and the only question is how long they ought to be required to reside in the State. I say again, that as the law now stands it is equivalent to requiring a sixteen or eighteen months residence before they can vote, and I say that whether citizens or aliens that is too long a time. You cannot put off the election a month later because the weather is unfavorable. If you put it earlier there is the same objection, and unless they happen to come in the first boat of the season they cannot legally vote until the fall of the next year after their arrival, which is equivalent to an eighteen months' probation. Now, I say that if they can qualify themselves in six months', they can do it in four. If any time whatever is necessary, my vote shall be for putting it as short as possible.

Mr. CURTIS. Then why does not the gentleman propose three months?

Mr. EMMETT. For myself I should prefer two months or even one.

Mr. MURRAY. If the general election should be held just before navigation opens in the spring would not that remove the difficulty?

Mr. EMMETT. I think not. The effect would be to require persons to reside here for nearly a year.

Mr. BAKER. I have only one word to say. I have no doubt that four months probation is long enough. Most of the emigration to the Territory comes in the months' of April, May and June, after which there is a cessation of emigration until the fall. Now I would rather that the election should be put off a month later and allow persons to vote on a four months' residence. But the gentleman says that persons coming here from Europe will be allowed to vote upon four months' residence in the country. Now I am in favor of making no distinction between white men from whatever part of the world they come. If I were in favor of any other doctrine I would go right over to the other wing of the Capitol and join the Know Nothings at once. I believe in treating every white man equally. The doctrine is Democratic. I think four months is a sufficient residence and rather than go above that, I would cut it down to two.

Mr. GILMAN. I differ somewhat with all the gentlemen who have spoken on the subject of time. I think the electors themselves are the best judges of that. You take away a privilege of great importance to persons coming here by requiring a six months' residence. Suppose a person starts from the State of New York with his family, with the intention of becoming a settler in Minnesota, I think he should date his residence from the time he leaves. His family may be sick on the road, and I would like to know, if, when he has carried out his intention, he is not just as much entitled to vote as the man who has been here a year. He has lost his right to vote in the State of New York, and he must have the right to vote somewhere. Now, sir, I am in favor of allowing the actual, *bona fide* resident or settler to vote the next day after he arrives.

The amendment was agreed to.

Mr. SIBLEY. I move to amend the section in the seventh line by striking out the word "white," where it occurs before "citizens." I think there are no other than white citizens of the United States.

Mr. CURTIS. I have but one word to say on the subject of the gentleman's amendment, which is simply this. The point which the gentleman seems to consider settled, as to whether there are citizens in Minnesota other than white citizens, has not, in my opinion, been so definitely settled as the gentleman seems to think. The decision of the Supreme Court of the United States in the DRED SCOTT case, in the opinion of very many persons, settles no such thing.

Mr. SIBLEY. I think the gentleman is mistaken.

Mr. EMMETT. I think not. The Law Reporter says that if it could be considered as a decision at all, it was after all a mere *ipse dixit* of the Court.

Mr. MURRAY. I take the same view of the case with my colleague on the Committee (Mr. CURTIS) in reference to the proposition of the gentleman from Dakota, (Mr. SIBLEY) who says there are no other than white citizens. Now, in a recent decision Judge MCLEAN decides that there are other than white citizens, and where a negro brought action for damages, decided in favor of the plaintiff, on the ground that he was a citizen.

Mr. SIBLEY. I ask the gentleman if he does not know that Judge MCLEAN was one of the dissenting judges in the DRED SCOTT case.

Mr. MURRAY. Yes, sir; but still Judge MCLEAN made the decision to which I have referred, and as long as there is any doubt

hanging over the subject, I think the clause had better stand as reported.

Mr. SIBLEY. I withdraw my amendment.

Mr. BROWN. I move to strike out of the third clause of the section, the words "of Indian blood and persons," so the clause will read:

"THIRD. Persons of mixed white and Indian blood, who have adopted the customs and habits of civilization."

I do it for the purpose of offering subsequently another clause providing for persons of Indian blood, when they have passed through the ordeal which I shall propose.

Mr. CURTIS. I hope the gentleman will explain himself more fully before this clause is stricken out.

Mr. BROWN. I will read the clause I shall propose respecting Indians. It is as follows:

"FOURTH. Persons of Indian blood residing in this State, who have adopted the language, customs and habits of civilization, after an examination before a District Court of the State, in such manner as may be provided by law, and shall have been pronounced by said Court capable of enjoying the rights of citizenship within the State."

Mr. CURTIS. I am opposed to the gentleman's amendment. I think that persons of mixed white and Indian blood, and those of pure Indian blood, should be placed upon precisely the same footing. I ask by what rule you are to ascertain whether an Indian has white blood in him. I see no reason why an Indian who has adopted the habits and customs of civilization, should not be allowed to vote on the same terms as a person of mixed blood. The gentleman has also inserted in his proposition a provision in regard to language. Now, sir, if that requirement is to be applied to the Indians, you may just as well provide that persons of foreign blood shall be required to speak the English language.

Mr. SIBLEY. Indians, we all know, in their natural state, are barbarians. They do not come within the same category as foreigners at all. They should not be entitled to the privileges of American citizens, while they continue in their savage condition. But, sir, the gentleman proposes, by his amendment, that when an Indian has left his barbarous state and become part and parcel of the community in which we live, when he has been pronounced by the proper tribunal to be capable of appreciating the privileges of an American citizen, he shall be admitted to the rights of citizenship. But, sir, the idea of placing Indians in their wild and barbarous state, in the same category with foreigners, is preposterous.

Mr. CURTIS. Only in regard to language.

Mr. SIBLEY. Those of us who favor the amendment of the gentleman from Sibley, (Mr. BROWN) are just as much in favor of benefitting the Indians as the gentleman who has just spoken. We are willing to give Indians all the rights of citizenship when they have been declared by a proper tribunal to be capable of enjoying them—that is, when they have learned to speak our language, and have adopted the habits and customs of civilization.

Mr. BROWN. I would inquire of the gentleman from Washington whether he would propose to allow every Indian in the country to vote from the mere fact that he could hoe a hill of corn and wear a pair of pantaloons.

Mr. CURTIS. I answer the gentleman that hoeing a hill of corn and wearing pantaloons do not constitute all the habits and customs of civilization. Now, Sir, the gentleman has argued here that it is necessary to have a tribunal who shall ascertain whether these barbarians have become civilized. The same argument would apply to half-breeds and persons of mixed white and Indian blood. Otherwise why did you prescribe here in the same section that this latter class of persons shall conform to the customs and habits of civilization? It presupposes that they have not so conformed, or else why retain the requirement? Now, Sir, I do not care whether the word "language" is inserted or not. All I ask is that Indians and mixed bloods shall be placed on the same ground precisely. If the requirement of language is made in one case, it ought to be made in both. As a matter of fact, persons of half Indian blood are in as great a state of barbarism as persons of full Indian blood. It does not follow because a person has white and Indian blood that he is a half-breed. He may have but a slight particle of white blood in him. A half-breed, if you please, may be married to an Indian. Their children may marry Indians, and so on, *ad infinitum*. Still, if there is a drop of white blood remaining, under the clause you distinguish the person as belonging to a separate class, and he is to be admitted to the rights of citizenship under regulations different from those you apply to Indians. All I ask is that the same restrictions applied to one shall be applied to the other.

Mr. BECKER. I should have supposed from the arguments I heard the other day that I was in the camp of the Republicans at the other end of the Capitol, or in Connecticut or Massachusetts, instead of being here in the hall where the Democratic Constitutional Convention has assembled. I have heard every kind of distrust expressed against the ballot-box. I should not have been surprised to have heard such sentiments coming from the old tory

ranks, or from the Know-Nothing ranks, but never have I seen such distrust of the American people and of foreigners who have become citizens amongst us, as has been manifested by the delegates to this Convention. It is not enough that we must restrict those coming from abroad, but gentlemen will also apply unnecessary restrictions to those who have been born here upon our own soil. Why, Sir, I am told by my honorable friend on the other side that we are to make a distinction in this Constitution between those half-breeds living with us and settlers from abroad in the right of elective franchise. Sir, when I have seen the Indian half-breed baring his bosom for the protection of the white man; when I recollect that from the earliest days of our settlement we have found our strongest protection in this class of people, and that the captives taken by hostile Indians have been rescued and returned by those half-breeds, I say that to make a distinction against them in respect to the rights of citizenship, is monstrous. No discrimination whatever should be made against these men and our own white citizens, and I am also in favor of allowing Indians of full blood the same rights and privileges whenever they shall have adopted the customs and habits of civilization.

Mr. FLANDRAU. I think the gentleman from Washington, (Mr. CURTIS,) in his argument upon this subject, has gone further astray than upon any other, which has undoubtedly arisen from the fact that his residence is in a locality where he has had comparatively few opportunities of observing the progress of the Indians in civilization. Now, Sir, I have a memorial to this Convention upon the subject of Indian suffrage, from the Indians, or a portion of them, who have become civilized in this Territory, signed in their own handwriting, and a very interesting memorial it is. I shall ask at the proper time that it may be received and entered upon the Journal of this Convention. It is as follows:

TO THE HONORABLE, THE MEMBERS OF THE CONVENTION:

The undersigned, your petitioners, would respectfully represent,

1st. That they are living on the Dakota Reservation, within the bounds of the proposed State of Minnesota.

2d. That they are composed of half-bloods of the Dakota nation, who, by the Organic Act of the Territory, are constituted citizens; and full-blood Dakotas who have not, by that instrument, been thus invested.

3d. That their Republic has been formed on the principles of education and labor; in other words, they have learned to read and write their own language, and some of them have obtained a partial knowledge of the English language, and they have adopted the dress and habits of civilized men.

4th. That they have organized themselves into a civilized band for the purpose of fixing and extending civilization, education and the religion of the Bible among their people.

Your petitioners therefore desire that all who are civilized and educated

among the Indians, whether part or full blood, may be recognized by the Constitution as citizens of the State of Minnesota, and be entitled to all the immunities and privileges of the same.

PAUL MA-ZA-KU-TE-MA-NI,
HENOCK MAR-PI-YA-H-DI-NA-PI,
ENOS WA-SU-HO-WAX-TE,
SIMON ANA-WAG-MA-NI,
LORENZO LAURENCE,
ELI WAKI-YA-HDI,
AMOS EE-TO-KI-YA,
MICHEL RENVILL,
ANTOINE RENVILL,
ISAAC RENVILL,
JOSEPH KA-WAN-KI,
ROBERT CHASKE.

HAZLEWOOD, M. T., July 4, 1857.

Now, Sir, I do not believe that any gentleman desires that men in their savage state shall be entitled to participate in the right of suffrage with citizens of this Territory. But, Sir, it is the policy of the Government, and ever has been, to civilize these Indians if possible. A great deal of time, money and labor has been expended for that purpose, and although no very great progress has been made, yet some progress has been made. I can testify from my own observation the progress with the most promising results of the Indians belonging to the community who have memorialized this Convention. I know, personally, every one of them. They have separated themselves from their tribes, and have adopted a system of government with a written Constitution. They govern themselves, elect their own officers, and transact their business with as much formality and regularity, and with as good judgment in relation to their governmental matters and internal police as any community in the Territory. They have learned to read and write. They have erected a very handsome little Church, and they are men of intelligence, possessing knowledge of all the lesser branches of education. Now, Sir, when Indians like these desire to become civilized, it seems to me the least we can do is to give them all the encouragement we can with safety to ourselves. But while it is just and right that we should accord them these privileges, we should take care not to jeopardize our own rights, and I am in favor of surrounding those rights by ample safeguards. Now if the fact of their having adopted the habits and customs of civilization is left to be determined by the Judges of Election, in the remote frontier settlements all a man has got to do who wishes to manufacture votes is to take a wild Indian, dress him up, bring him in and pass him off as having adopted the habits and customs of civilized life, and then strip off his clothes and let him return to his tribe. I submit that we ought to guard ourselves against the perpetration

of such frauds. When an Indian has really become civilized, and desires to possess the privileges and immunities of the citizen, let him present himself to some tribunal in which the people have confidence, which will protect the rights of the citizen, and let them extend to him the same rights, if he is capable of enjoying them. An Indian who desires to become civilized, and who has made sufficient progress in civilization, is as much entitled to vote as any other man. They were the original possessors of our soil. They have suffered at our hands, and if we can extend to them any suffrage as compensation for what we have taken from them, and it can be done without danger to ourselves of introducing an element into our politics which may give rise to corruption and fraud, I trust it will be done. I trust gentlemen are not so prejudiced against the Indians as to prevent them from receiving justice at our hands.

Mr. SIBLEY. The gentleman from Washington has referred to the fact that the paragraph now under consideration, places persons of pure and mixed Indian blood upon different basis. Now, sir, we all know that these mixed bloods as a class occupy in ninety-nine cases out of one hundred entirely different positions in respect to civilization from the Indians.

Mr. CURTIS. The language of the paragraph pre-supposes that these mixed bloods are not civilized.

Mr. SIBLEY. The reason why that phraseology was used lies in the fact that there is a certain portion—a very small portion—of persons of mixed white and Indian blood who reside among the Indians, and have not adopted the customs of civilized life.

Now sir, the gentleman should recollect that we have already provided that those persons who are civilized, shall be entitled to the same right of suffrage as ourselves. I concur entirely in the views of the gentleman who has just taken his seat. There are sundry of us among the older residents of the Territory, who have been trying to get some medium, some safe ground on which we may allow Indians who have abandoned their former mode of life, and have become to all intents and purposes civilized men, to enjoy the rights and privileges of citizenship. I hope the gentleman will be satisfied when he comes to examine the matter a little more thoroughly that the course proposed by the gentleman from Sibley is the best we can adopt.

The amendment was adopted.

Mr. BROWN moved further to amend the Section by adding thereto the following clause:

"4th. Persons of Indian blood residing in this State, who have adopted the

language, customs, and habits of civilization, after an examination before a Circuit Court of the State, in such manner as may be provided by law, and shall have been pronounced by said Court capable of enjoying the rights of citizenship within the State.

Mr. CURTIS. I move to amend the amendment by striking out the words "Circuit Court," and inserting, "Probate Court."

I think the amendment should be made for the reason that the Circuit Court is only in Session at certain periods during the year. The matter should be referred to a Court always in Session, the same as in the case of foreigners who wish to declare their intention to become citizens. If, however, gentlemen object to the particular Court I have named, I will so modify my amendment as to make it read, "any Court of record."

Mr. FLANDRAU. There will be a District Court in Session, in some portion of the Territory almost every two weeks during the year. I would suggest to the gentleman that the words, "District Court," should be substituted for "Circuit Court." We shall probably have no such Court as a Circuit Court recognized under our Constitution. There will be a Circuit Court, but it will be a Court of the United States. The only object to be attained is that the Court to which this matter is referred, shall be one of acknowleged respectability and learning. Now sir, if the matter is referred to Probate Courts established in our frontier counties, you do not provide that protection which ought to be thrown around the rights of our citizens. The first thing we shall know some Probate Judge, in order to carry a party measure, will admit hundreds of wild Indians to the right of suffrage. When Indians are allowed to vote, that right should be given them by some tribunal of high respectability.

Mr. CURTIS. It has been urged here that those gentlemen who have had association with the Indians, and have been long among them understand their character, and are far better able to judge of these matters than those of us who have had less intercourse with them. Now sir, the statement of the gentleman has furnished us with the strongest possible argument against his own position. According to the gentleman's own view, these very frontier men are better qualified to determine these matters, than Judges of the Circuit or District Court, who have never seen an Indian in their life time. These very frontier men are far the best qualified to determine, whether Indians have changed their savage life and become civilized, and therefore, are the best judges as to when this miraculous change has occurred. And although these men may not be learned in the law, still they are learned enough in common sense

to be able to distinguish between an Indian in his savage state, and one who has adopted the habits of civilization.

Mr. BROWN. I will venture to say, and I think the gentleman who has just spoken will agree with me, that in the frontier counties at this time, there is not a Judge of Probate who knows as much about Indian character as the gentleman himself. As has been remarked, in the frontier counties there are very few persons qualified for the office of Probate Judge who will accept that office. It is one of a great deal of trouble and very little profit, and very few who accept it understand what its duties are. I will modify my amendment in accordance with the suggestion of the gentleman from Nicollet, by substituting the words "District Court," for "Circuit Court."

The amendment to the amendment was not agreed to.

The amendment was then adopted.

Mr. EMMETT moved to amend by striking out the words, "who have" in the twelfth line, and inserting the words "who shall have dissolved all tribal relations and."

Mr. BROWN. There is very little objection to that, except that Indians cannot dissolve their tribal relations until they secure them, and they can only secure them by disregarding civilized customs.

Mr. EMMETT. Then of course my amendment will apply. My object in offering the amendment, was to prevent members of tribes who are in reality wild Indians, from the enjoyment of the Elective Franchise.

Mr. BROWN. I presume it is well known that there are some mixed bloods among the Indians who have joined tribes, and who are considered as forming portions of such tribes, but those who have adopted the customs of the whites do not belong to any tribe, and of course, no tribal relations can be dissolved.

Mr. FLANDRAU. Upon the subject of tribal relations, the gentleman's amendment would act injuriously in a large number of meritorious cases, for if they possessed any tribal relations in respect to property, or otherwise, they would not be entitled to vote. Now I know that at my Agency there are a great many persons who are as good citizens in all their relations as citizens as there are in the Territory, who draw annuities with the Indians. Some of them are just as white as the gentleman himself. A great many of them are just as well qualified to exercise all the rights of citizenship as I am, and and I ask if they should be deprived of the right of voting, merely because they draw these annuities? Should they be deprived of their annuities, merely from the fact that they

enjoy the right to vote? I hope no such clause will be inserted in the Constitution.

Mr. EMMETT. I offered this amendment for the purpose of calling the gentleman out. I think myself, if a person of mixed blood is a civilized member of society, he should be allowed to participate in the privileges of citizenship, whether he holds tribal relations or not. I did not intend by my amendment, to exclude the class of persons to which the gentleman has referred.

Mr. BROWN. I did not suppose when the gentleman offered his amendment, that he intended to exclude those who adopted the customs and habits of the whites, and who are white men to all intents and purposes, in all their social qualities and in all their feelings toward our government, but that he intended to exclude those who live and act with the Indians and not as white men. That is already provided for by the section as it stands, because if a person of mixed Indian and white blood has not adopted the habits and customs of the whites, but resides with the Indians, he has never been considered as belonging to any other class except that of Indians. But in the Indian country, where the Indians can reach the resident mixed bloods, especially those living on the Reservations, they have invariably kept up their tribal relations with their relatives, the object being to allow the mixed bloods to receive annuities, for the Indians depend upon them in a great measure for their subsistence. Now, unless some remuneration could be provided for the loss of their annuities, it would be unjust to deprive these mixed bloods of their annuities by requiring them to dissolve their tribal relations. As the gentleman has said, many of them are thoroughly in their manners and feelings, white men. Some of them cannot even speak the Indian language.

Mr. EMMETT. There is another objection which I should like to hear gentlemen discuss. While these persons we are speaking of are on their Reservations, they are all within the jurisdiction of the United States, and are without our jurisdiction. If not, then we are a wheel within a wheel—a government within a government. Is their property taxed? Do they pay anything for the support of our Territorial government? Now I hold that this class of men, living upon the Reservations, and not identifying themselves with us, however well they may be qualified in other respects, ought not to exercise the elective franchise. If they are not taxed, it is a violation of a fundamental Democratic principle. Taxation and the elective franchise ought always to go together. They should not be authorized, directly or indirectly, to interfere

with matters of government, when they themselves pay nothing for the support of government.

Mr. BROWN. They pay the same proportion of taxes as the gentleman himself. The last time I was as the Sioux Agency, the Assessor of Brown County came to the Agency and the whole property on the Reservation was taxed, and every man on that Reservation who possessed property was taxed precisely as if he had lived in Brown County.

Mr. EMMETT. They were taxed then without authority of law. I undertake to say that not one dime could be collected on any Reservation.

Mr. SIBLEY. The gentleman's course of argument would exclude from citizenship every man living on that Reservation. Does not the gentleman know that no man can lose his residence by going out of the State of which he is a citizen, simply because he is an employee of the United States? There is no reason why these men should be deprived of their votes because they are in the employ of the government.

Mr. EMMETT. Nor would they if they were to return to the State from which they came.

Mr. FLANDRAU. In answer to the gentleman's argument, I wish to state some facts within my own knowledge. I have lived for some time on an Indian Reservation, and whatever may be the law, it has become the system in this country, whether right or wrong, I do not pretend to say, to tax the property on Indian or Military Reservations. I know that on the Winnebago Reservation, the stores and all the property of the traders are taxed—in the same way at the Sioux Agency. The Assessor makes his assessments as regularly as in any county of the Territory, and the same course is pursued on the Military Reservations. With this state of things, I ask if it is right to deprive FRANK STEELE of the right of suffrage, simply because he resides on the Fort Snelling Reservation, or settlers who reside on any one of the Indian Reservations.

Mr. EMMETT. I will answer the gentleman in this way. If Mr. STEELE or any other man resides upon a Reservation over which the State or Territory has no jurisdiction, and has no property elsewhere, the property of Mr. STEELE could not be taxed; or if it is taxed, it is done illegally. Now if Mr. STEELE resides without our jurisdiction, and pays nothing for the support of our government, he has no right to vote.

Mr. FLANDRAU. The gentleman labors under this mistake. He is talking of what may be the law. Now, sir, I have stated what is the law as practically carried out. These settlers do pay

taxes the same as other citizens of the Territory, and I ask the gentleman if he is prepared to incorporate into our Constitution so obnoxious and unjust a feature as to deprive them of their votes.

The amendment was not agreed to.

Mr. SIBLEY. I move to strike out Section seven of the report as follows:

SEC. 7. All persons designated in Section one of this Article, who shall be inhabitants of this State, shall be entitled to vote at any election to be held upon the day that this Constitution shall be submitted to the people for its ratification or acceptance.

Mr. BROWN. I hope that section will be stricken out. The Committee on Apportionment will provide for this first election in the Schedule.

The motion to strike out was agreed to.

Mr. BROWN moved to amend Section eight, which provides for elligibility to office by adding "except as otherwise provided in "this Constitution or the Constitution and Laws of the United "States."

The amendment was agreed to.

On motion of Mr. FLANDRAU, the Committee rose, reported back the Article with amendments, and asked the concurrence of the Convention therein.

On motion of Mr. KINGSBURY, the amendments were concurred in in gross.

The Article was then ordered to be engrossed.

Mr. WAIT, from the Committee on Impeachments and Removals from Office, presented a report which was laid on the table.

On motion of Mr. CURTIS, the Convention at one o'clock, adjourned until half past 2 o'clock, P. M.

AFTERNOON SESSION.

The Convention met at half past two o'clock.

SCHOOL FUND, EDUCATION AND SCIENCE.

On motion of Mr. KINGSBURY, the Convention resolved itself into Committee of the Whole on the report on School Funds, Education and Science, (Mr. CURTIS in the Chair.)

The following is the report of the Committee:

SCHOOL FUNDS, EDUCATION AND SCIENCE.

SECTION 1. Wisdom and Knowledge, as well as Virtue, are essential to the

preservation of the rights and liberties of the people, therefore: It shall be the duty of the Legislature of this State to cherish the interests of Education in Literature and Science, and to establish a general system of Public Schools; to encourage public and private instruction for the promotion of Agriculture, Arts, Science, Commerce, Trade, Manufactories, and Natural History of the Country; and to adopt all means which they may deem necessary and proper to secure to the people the advantages and opportunities of Education.

SEC. 2. The proceeds of such lands as are or hereafter may be granted by the United States for the use of Schools within each Township in this State, shall remain a perpetual fund. Said lands shall not be disposed of otherwise than by lease for the term of ten years. The principal of all funds arising from sale, or other disposition of lands, or other property, granted or entrusted to this State in each Township, for Educational purposes, shall forever be preserved inviolate and undiminished; and the income arising therefrom shall be faithfully applied to the specific objects of the original grants or appropriations, by each township respectively.

SEC. 3. The Legislature shall make such provisions, by taxation or otherwise, as, with the income arising from the School Fund, will secure a thorough and efficient system of Schools in each Township in the State.

SEC. 4. The location of the University of Minnesota, as established by existing laws, is hereby confirmed, and said institution is hereby declared to be the University of the State of Minnesota. All the rights, immunities, franchises and endowments heretofore granted or conferred, are hereby perpetuated unto the said University, and all lands which may be granted hereafter by Congress, or other donations for said University purposes shall vest in the institution referred to in this State.

Mr. BAASEN moved to strike out the Preamble in Section one.

The motion was not agreed to.

Mr. KINGSBURY. I move to strike out the word "are" and insert the word "being," so as to make it read: "Wisdom and "Knowledge as well as Virtue being essential," &c.

I presume it is a self-evident fact that these attributes are essential to the preservation of the rights and liberties of the people, and inasmuch as the Committee has refused to strike out the Preamble altogether, I hope it will be so amended.

The amendment was agreed to.

Mr. M'MAHAN moved to amend Section two by inserting in the third line, before the word "said," the words, "more than one-half "of," so as to make the clause read "more than one half of said "lands shall not be disposed of otherwise than by lease for the "term of ten years."

Mr. A. E. AMES. Before the question is put upon the amendment, I deem it proper to state what governed me as Chairman of the Committee having this subject under consideration, in inserting that clause.

In my opinion this gift of the General Government to the future

State of Minnesota, for the support of Public Schools, is a sacred gift, which should be taken care of and husbanded in the best manner possible. Looking to the past, I saw how many of the Western States having similar grants, have disposed of them almost immediately after assuming the form of State Governments without realizing but a small portion of the amount, which they might, with a little care, have realized as a perpetual fund for the support of Schools hereafter.

In estimating the quantity of land to which we are entitled under the grant of Congress for school purposes, I find that there are about 25,000,000 acres, which, if sold immediately on our coming into the Union as a State, would hardly bring us $3,000,000; while if kept unsold for ten years, with the prospects we have of a rise in the value of property, at the end of that period we shall realize a sum amounting to not less than $25,000,000 to remain as a perpetual fund, the interest of which, is to be devoted to the support of our public schools.

Sir, it is not difficult to see that this is one of the most important interests of the future State of Minnesota, committed to our care. I have said that it is a sacred gift entrusted to us for our children, and our children's children; if we husband it well, they will "rise up and call us blessed." If we squander it away we shall receive only their curses.

It is for these reasons that I have inserted this clause in the shape in which it appears, and I hope the amendment will not prevail.

Mr. WAIT. I would inquire whether it is the intention to have them disposed of at the expiration of 10 years.

Mr. A. E. AMES. That will remain for the Legislature hereafter to determine.

Mr. SETZER. I scarcely understand the construction which may be given to the section as it now stands. It reads:

"Said land shall not be disposed of otherwise than by lease, for the term of ten years."

I presume the intention of the gentleman was that these lands should not be disposed of until the expiration of that term. I would suggest to the gentleman, therefore, that he amend it by striking out the word "for" and inserting "until after the expiration of."

Mr. A. E. AMES. I would accommodate the gentleman if I thought I could make it any more clear to his mind.

Mr SETZER moved to amend the amendment by striking out the paragraph and inserting the following:—"For and during the

"term of ten years after the adoption of this Constitution, said lands "shall only be disposed of by lease not to continue for a longer "period than ten years."

The amendment to the amendment was not agreed to.

Mr. KINGSBURY moved to amend the amendment by striking out the paragraph and inserting in lieu thereof the following: "For the term of ten years, said lands shall not be disposed of "otherwise than by lease."

The amendment to the amendment was carried.

Mr. MURRAY moved to amend the amendment by striking out "ten," and inserting "twenty-five."

The amendment was not agreed to.

Mr. HOLCOMBE moved to amend the amendment by adding to the paragraph the following: "Except they can be sold for a sum "not less than $10 per acre."

Mr. DAY. I hope the amendment will prevail. If I understand the matter of school lands, each township is to receive the proceeds of the sales arising within its own limits. Now, sir, I know quite a number of townships where the 16th and the 36th sections could be sold to-day for more than $25 an acre.

The amendment to the amendment was not agreed to.

Mr. HOLCOMBE. I renew the amendment, fixing the price at $6 an acre.

The amendment to the amendment was not agreed to.

Mr. SETZER. Before the question is taken upon the amendment I desire to explain the reason of my vote. The argument of the gentleman from Minneapolis (Mr. AMES) was very plausible, but this difficulty arises: There are counties in this State where the lands are not going to rise in value for 10 or 12 years. They gain nothing by keeping their lands and want the funds to use. Now, the question is, whether for the sake of favoring one set of counties, we should exclude these other counties from the sale of their school lands. It is a matter for serious consideration and which should not be lightly passed over. For my part, I hardly know what I ought to do, but I shall vote against the amendment.

Mr. MEEKER. For myself, I am opposed to any immediate sale of the school lands. I would like to see the Legislature withhold those lands from sale until they can be sold for a reasonable amount. In several of the Western States,—in Missouri, Illinois, and Indiana,—where they have had large reservations for school purposes, the school lands have been sold and the funds arising therefrom frittered away by mal-administration, until they have not realized more than 50 or 60 cents, and, in some instances, not more than 25

or 30 cents per acre, and but little benefit has been derived from the munificent grant of Congress for school purposes. In all these States the lands have gone into the hands of speculators, and the people have to support their common school system by contributions from their own purses. I am told that such is also the case to a very great extent in Wisconsin, where their large school fund has almost gone out of view in consequence of indiscreet legislation. Their school lands, within the last four or five years, have been sold under the authority of the Legislature, for a mere nominal consideration. Now, sir, I want the Legislature of Minnesota to be restrained from selling any lands in less than ten years, and that, under no circumstances, shall they be sold for less than a reasonable price.

Mr. STREETER. I move to amend the amendment by substituting five for ten years. I have been a good deal surprised to see the position some gentlemen have taken here in regard to the disposal of the School Funds in this Territory or State. It is nothing more nor less than an attempt to deprive the people of Minnesota of the benefit of every dollar of that fund for ten years. The gentleman has cited what was done in the State of Wisconsin. Now, sir, I would state to the gentleman that in Iowa, the school lands were disposed of at two dollars and a half per acre and the money loaned out under the immediate supervision of the School Fund Commissioner, and they have an abundant School Fund in that State. Mr. CHAIRMAN, I am in favor of leaving this matter to the discretion of the Legislature. I do not believe that it is right to say these lands shall not be sold in less than ten years. What are we going to gain by it? Will settlers coming into this Territory lease the school lands when they can purchase other lands for one dollar and a quarter per acre? Sir, not a dollar will you get for the next ten years. It would be better to sell the lands immediately, even if they did not bring two dollars per acre, and loan the money out at interest, than to withhold them from sale and receive no benefit whatever from them.

Mr. A. E. AMES. I wish to reserve them until they shall constitute a fund sufficient to support our Common Schools.

Mr. STEETER. Very well; now is the time when we want the money. Ten years hence the people will be able to support their own Common Schools.

The amendment to the amendment was not agreed to.

Mr. KEEGAN moved to amend the amendment by inserting "twenty" in lieu of "ten."

The amendment to the amendment was not agreed to.

The ameudment was then rejected.

Mr. STREETER moved to strike out the following clause :

"Said lands shall not be disposed of otherwise than by lease, for the term of ten years."

The amendment was not agreed to.

Mr. GILMAN moved to amend section two by inserting after the word "undiminished," in the eighth line, the following :

"And the proceeds arising from the rent or sale of School Lands, shall be divided equally among the different townships supporting Schools throughout the State."

The motion was not agreed to.

Mr. MURRAY. I ask what is the meaning of this clause in the Section ?

The principal of all funds arising from sale or other disposition of the lands or other property granted or entrusted to this State, in each township, for educational purposes, shall forever remain inviolate and undiminished."

Mr. GORMAN. I suppose it means that each township shall have control of the particular land lying within its own limits, and that the fund shall not be a common fund. Mr. CHAIRMAN, this is not the rule that obtains and has been adopted in the old States, and with all due respect to the Committee which have had especial charge of the matter, I think it is not the rule we should adopt. If I understand the object of the Congress of the United States, in making a grant of the sixteenth and thirty-sixth sections of land in every township, it was a grant made to the people in their aggregate capacity. It was a grant to the whole people of the State in common. The intention was that no particular advantage shall be derived by one person over another. As I understand our Organic Act, it was intended to be a common fund, and I undertake to say it should remain a common fund.

Now, sir, in various portions of the Territory, in the Superior district, for example, in one portion of the district the sixteenth and thirty-sixth sections may be entirely worthless, while in the other portion they may be valuable and capable of supporting a large population. The effect of this clause would be that the children in one portion of the district would derive no benefit from the School Fund, while in the other portion the fund would be large enough to support their schools. I repeat, sir, this fund should be made and preserved a common fund. Such has been the construction given to the grant in the States of Wisconsin, Illinois, Indiana aud Iowa, and such is the only legitimate costruction which can be given. There is no justice or propriety in any other construction. There is a township within my knowledge, where, if the school sections had been sold prior to their survey and set-

tlement, they would have brought not less than $100,000. This, if the provisions of the section are to prevail, must all go for the benefit of this single township, while in the adjoining township where the school sections happen to be a marsh, the people get nothing. But, sir, I am in favor of leaving the whole matter to the Legislature. Let them make what provisions they may deem necessary on the subject, as they have done in other States. It is purely a matter of Legislation. Sir, this idea which seems to prevail so extensively among our friends, that the Legislature is corrupt and cannot be trusted, is a bugbear. I repudiate the idea. It has no truth in it. The members of the Legislature are responsible directly to the people, and although there may be outside corrupting influences to which they may be exposed, yet I undertake to say that they feel their responsibility as much as you or I do.

Mr. CHAIRMAN, I repeat that the plan of distributing these school lands provided for in this Section is unjust. They were given us to be distributed for the benefit of all the people of the State, upon the principle of "equal rights to all, exclusive privileges to none." When lands are sold in any of the several counties or districts, the proceeds should be placed in a common fund and divided among all the people of the State in proportion to the number of scholars in the public schools, under such regulations as shall be provided by law. Sir, we are here settling a great principle which is to have a large influence on the prosperity of our State. I suppose gentlemen understand it, and are as well prepared to vote before what I have said as afterwards; but, sir, I was not willing to sit silently and see such a provision adopted into our Constitution without giving the reasons for my vote. Sir, I know another instance where the school Section is immensely valuable, in the neighborhood of my friend from Dakota, (Mr. SIBLEY,) so valuable that the people in the neighborhood, under this provision as reported, would be always amply provided with a school fund, while in an adjoining township, the school Sections are, and will remain for many years, if not forever, entirely worthless. Now, what are they to do for a school fund? They cannot raise twenty-five cents upon their lands. But the policy of this Section, in my judgment, takes care of those who are fortunately located, and just says to the others, you can take care of yourselves. It gives liberally to those who are favorably located, and for those who are unfavorably located, the little they have shall be taken away from them.

Mr. BAKER. If the gentleman quotes Scripture, I hope he will quote correctly. (Laughter.)

Mr. GORMAN. Now, sir, this is not by any means a new speech.

These are precisely the sentiments I uttered fifteen or sixteen years ago, and public opinion has invariably sustained the policy. I say, let this munificent gift of Congress fall, like the dews of heaven, upon all alike, rich or poor. I hope that we shall not allow ourselves to be controlled by any spirit of demagogism in this matter. I do not ask that the rich shall give to the poor; I only insist that this grant, which was given to us as a common fund, shall be dealt out equally to all.

I am aware that in the position I have taken, I am treading upon the toes of some gentlemen in this Convention, who have constituents who are amply provided for in the school lands in their respective localities. If these gentlemen were members of the Legislature, they would be right in standing by their respective localities, but I view their position as members of this Convention very differently. We are representing the whole people here in their sovereign capacity. We are laying the foundation stone for our State Government, and it is the duty of every man, no matter from what locality he comes, to dispense the blessings of Govern ment equally to all.

Mr. SIBLEY. I utterly dissent from the position taken by the gentleman from Ramsey. The gentleman says he has made the same speech which he made fifteen or sixteen years ago. Well, sir, I think the speech savors somewhat of old fogyism. I trust the public opinion has become enlightened somewhat in that time. Now, sir, I want to know what is the true meaning and intent of Congress in giving *eo nomine* to each township a certain quantity of land? If the intent was to give it as a great fund to the State, why was the grant made of two sections of land in each several township? Why were not the lands given like the University lands, in a body, to be located anywhere in the Territory? But. sir, such was not the intention of Congress in making the grant. The donation was to each township respectively, carrying out the great Democratic doctrine of bringing down as near as possible to the people, the disposal of these lands.

Now, Sir, in reply to the statement of the gentleman from Ramsey, who has just addressed the Convention, that the lands in some localities were immensely valuable, while others were comparatively worthless, I have to say that, as a general thing, land is valuable in particular localities because there is a large preponderance of population in the neighborhood, and the number of people to be benefitted by the sale of particular sections will increase in proportion to the increased value of such sections. so that there is really no inequality connected with the matter as it stands.

But the gentleman says that the Legislature should not be restricted. I say, as another gentleman remarked this morning, that we are here to limit the Legislature. We are here to prescribe rules for the government of the Legislature, which shall restrain them from the passage of improper laws. I hope this Convention is not ready to sanction the policy advocated by the gentleman from Ramsey. I do not want to see every township put under the supervision of a great Central Committee, located here in St. Paul. I want the people who live in a particular township to be able to say for themselves what disposition shall be made of the lands donated to them within their own limits.

Mr. CHAIRMAN, let this magnificent fund, given us by Congress, be placed under the control of a Board of Commissioners to be called together here in St. Paul, and I venture to say that in less than a quarter of a century we shall have very little school fund left. There will be small leaks and large leaks, which the Legislature cannot prevent, if it is so disposed. I am in favor of placing the lands in each township under the control of the people of that township, and of fixing limits on the subject beyond which the Legislature cannot go in respect to any general disposition of the funds.

Mr. STREETER. Is the gentleman in favor of taking the disposition of the lands out of the hands of the people for ten years, so that they shall not receive the benefit of a single dollar of the fund within that time?

Mr. SIBLEY. I am in favor of no general disposition of the lands by the State authorities.

Mr. WAIT. How would the Government provide for the townships where they have no school lands?

Mr. SIBLEY. There are no such townships. The law prescribes that every township shall receive two sections of land for school purposes. Does the gentleman know of any township which has no school lands?

Mr. WAIT. I do; the township in which I reside has not an acre of school lands; and that is by no means an isolated instance. In many of the townships, when the lands came to be surveyed, the school lands were found to have been pre-empted, and have all passed into the hands of pre-emptors.

Mr. TENVOORDE. I, too, know of many such instances, where the school lands are either valueless or have gone into the hands of pre-emptors. It is true that by the law of Congress we are allowed to go into the back portions of the Territory and select lands in lieu of those we should have had in our own townships, but the lands we have to select will not probably be worth two dol-

lars per acre in twenty-five years. I am in favor of the policy advocated by the gentleman from Ramsey, (Mr. GORMAN,) of keeping this magnificent grant as a fund for the common benefit of all the people of the State. That is the only course which can be pursued without doing great injustice to a portion of the people of the Territory.

The amendment was agreed to.

Mr. WAIT moved to amend by inserting after the word "undiminished," in the eighth line, the words "and the income arising "from the lease or sale of said school lands shall be distributed to "the different townships throughout the State, in proportion to the "number of scholars in each township between the ages of five and "twenty-one years."

Mr. SETZER. The argument of the gentleman from St. Paul, (Mr. GORMAN,) though quite plausible, was not such as to convince me of the justice of the course which he proposes to pursue. I think the danger of the whole fund being squandered away, if it is made a common fund, will overbalance the hardships which some particular townships may suffer if the policy laid down in the report of the Committee is carried out. I have seen something of the way in which these school funds are managed when they are aggregated together under the control of the State authorities. In the State of Wisconsin the Legislature appointed officers to select lands in lieu of those which had been otherwise appropriated. They located them among the poorest lands in the State. The Legislature then appointed appraisers who appraised the value of the lands at twenty-five or thirty cents an acre, and they merely went into the hands of speculators. The Treasurer who collected the funds proved a defaulter to a large amount, and in this way, through the negligence or dishonesty of the State officers, the fund dwindled down to almost nothing.

Mr. BAKER. I call the gentleman to order unless he has reference to the free-soil appraisers. (Laughter.)

Mr. SETZER. I had reference to the State Treasurer who turned out to be a defaulter. I had no intention of hitting the gentleman. (Laughter.) I was proceeding to say that the School Funds in the State of Wisconsin are but a little of what they ought to have been under proper management, and the same consequences may occur in Minnesota, if the same course is pursued, as the gentleman from Ramsey recommends. But if each township is left to manage its own fund, it is true some townships will suffer an apparent hardship, and have, perhaps more than my own, for

I believe we have but a half Section, but the general effect of the policy will, in my opinion, be beneficial.

Mr. EMMETT. I hope the amendment will prevail. The gentleman from Dakota asserted that the School Lands were *eo nomine* given to each township respectively. Now sir, to show whether the gentleman states the law making the grant correctly, I read from the Organic Act of the Territory:

SEC. 18. *And be it further enacted*, That when the lands in the said Territory shall be surveyed, under the direction of the Government of the United States preparatory to bringing the same into market, sections numbered Sixteen and, Thirty-six, in each township in said Territory, shall be, and the same are hereby reserved for the purpose of being applied to Schools in said Territory, and in the States and Territories hereafter to be erected out of the same.

Mr. GORMAN. I will also read the provision contained in the Enabling Act on the same subject:

That sections numbered Sixteen and Thirty-six in every township of public lands in said State, and where either of said sections, or any part thereof, has been sold or otherwise disposed of, other lands, equivalent thereto and as contiguous as may be, shall be granted to said State for the use of Schools.

Mr. SIBLEY. The gentleman does not, of course, wish to misrepresent my position. I did not pretend to say that Congress had said directly, the School Sections in each township should revert to that township, but my position was that from the fact that two Sections had been reserved in each township, the inference must be drawn that the intention of Congress was to reserve such sections for the benefit of the townships respectively.

Mr. EMMETT. I misunderstood the gentleman, but I do not think now, that his conclusions follow legitimately from his premises. The evident design of Congress in designating sections Sixteen and Thirty-six in each township, was merely to locate the lands and not to devote them to the particular townships in which they are located. On the contrary, both the Organic Act, and the Enabling Act, say expressly that the lands are granted to the Territory and State. And again, inasmuch as the gentleman has referred to the Democratic feature of this subject, I say that if there is anything Democratic connected with it, it is that of giving the Fund for the equal benefit of all the people in the State.

Now, I can see very well how there will be great injustice, or not injustice, great disparity in the benefits to be derived by giving to each township the sections which happen to be located within its limits. Take, for instance, the County in which the Chairman of this Committee, (Mr. A. E. AMES,) resides. The School Sections in a certain portion of that County are worth as much as one hundred and fifty or two hundred dollars per acre, and will, when

sold reach a large aggregate amount, if they are not lost by pre-emptors—and I believe I have been trying to help them lose some portion of them, while in another portion of the County on the borders of Lake Minnetonka, the School Sections are under water.

Mr. SIBLEY. That is not a supposable case.

Mr. EMMETT. I say to the gentleman that in some cases, even where the streams or lakes are meandered, the lines are run so that a large portion of sections Sixteen and Thirty-six are under water. Now, if such should be the case in any township, or if the School Sections should be located in a swamp, how is that township to derive any benefit from the School Lands under the system which this Committee has reported? Sir, there are hundreds of townships in the Territory, I have no doubt, where they have no School Lands, or their lands are worthless. It is true that if their lands have been pre-empted, they are permitted to go off and select other lands where they are subject to entry at a dollar and a quarter per acre. In the township in which I reside, I do not think there is a foot of School Lands, and all the benefit we are permitted to enjoy from the grant of Congress, is to select two sections, where the land is worth a dollar and a quarter per acre for the three or four thousand children in the city, giving these three or four thousand children a fund less than that enjoyed by half a dozen children in a more fortunate township. There is no equality in it. There is no justice in it. It is given as a fund to all and all should be permitted to share equally in it. It is true that if the matter is left to the discretion of the Legislature, they may squander it away, but let us hope they will not. Let us have a little generous confidence in our future Legislatures.

Mr. KINGSBURY. I will state that in two-thirds of the townships on Lake Superior, both the sixteenth and thirty-sixth sections are cut off.

Mr. EMMETT. Now, I ask, how the inhabitants living on Lake Superior are to be benefitted by the donation of school lands? They are only permitted to select other lands where their lands have been pre-empted. It is true that the Legislature may squander the fund away if they have control of it; but it is also true that the towns may squander it if any of it is left to them. It is much easier for a half dozen men living in a township to manage to have the lands in that township sold for their benefit, than it is for the Legislature to commit a fraud of like character, because, in the one case, only the eyes of the neighborhood are upon them, while in the other, the eyes of the whole State are upon them, and every man is responsible for the vote which he gives.

Now, gentleman, talk about this being old fogyism. If it is, I am glad for once to defend old fogyism. If to be an old fogy is to defend equality among the people of the Territory, then to that extent I am an old foggy.

Mr. A. E. AMES. I understand the gentleman to say that this provision in the report of the Committee is contrary to the Organic Act of the Territory. Now sir, in Illinois, Wisconsin, Iowa, Oregon and Washington Territories, the law of Congress is precisely the same, yet in some instances they, have disposed of their school lands precisely as I propose to dispose of them in Minnesota.

Mr. EMMETT. The gentleman misunderstood me. I did not say we had not the right to give the lands to the several townships. I merely corrected the statement of the gentleman from Dakota, (Mr. SIBLEY) who said that *eo nomine*, these lands were given to the several townships. But, Mr. CHAIRMAN, I do not know but we are counting our chickens before they are hatched. It seems to me, that all we can do, is merely to make some general rule for the distribution of these funds. I do not think we ought to go into the details of legislation in reference to the matter, but I think we ought to make it imperative on the Legislature to distribute the benefits of the fund equally among all the people of the State.

Mr. SIBLEY. I think this whole scheme, though very plausible on its face, is one that is going to be attended with very great evils. I think that to aggregate this whole fund in the hands of a set of Commissioners, will have the effect of building up a great central interest here, which, instead of dispensing benefits among the people of the State will constitute a great electioneering machine, more connected with the State government than with the wants of the people at large. Adopt the policy proposed by the gentleman from Ramsay, and not a tenth part of the School fund will ever find its way for the support of the common schools. I am opposed to this whole doctrine of centralization. I hope this Convention will sustain the doctrine of giving this fund for the benefit of the people into the control of the people, and I have no doubt that it will be managed for the public welfare.

Mr. EMMETT. I ask the gentleman how the proceeds of the sales of the public lands distributed to the several States, has been used?

Mr. SIBLEY. I do not know. I have only to repeat that it is impossible to arrange this matter under the policy gentlemen seek to inaugurate, so that it will not build up a great central interest here in St. Paul, or wherever it is located, which will not be bene-

ficial to the best interests of the State. I have no confidence in leaving the matter to the Legislature.

Mr. BAKER. I have but a word to say upon this subject. Congress has made to the Territory two several grants of land for educational purposes. The first is of the 16th and 36th sections in every township for the support of Common Schools, and the other of a certain quantity of land in the aggregate, for the support of a University. Now, sir, I think the intention of the grant from the very manner in which it is given, in distinction from that given for the support of the University, was that the townships should manage their own lands for themselves, and there will in my opinion but little injustice or inequality result from giving it that distinction. As a matter of course in the remote townships where the lands must be disposed of at a less price, there are few schools and few children to educate, while in the large towns the funds will increase from the sale of the lands very nearly in proportion to the extent of their population. Now, sir, I have no doubt that to collect the whole funds in your State Capital would create a very convenient fund for the party in power, but it would not meet the wishes of Congress, and more than all it would deprive the children of the State of the assistance to which they are entitled under the grant of Congress. I hope those school lands will be kept free from party prejudice or from being connected in any way with party politics. They are left us as a legacy to our children and to their children after them and we should guard well the Legislature in any power we may give them to dispose of the lands. I am opposed *in toto* to having these funds deposited with the Treasurer of the State. I believe they may very safely be left with the people, and I hope that course will be taken.

Mr. MEEKER. We are in the consideration of a matter of great importance and upon which I trust we shall not act unadvisedly. Now, sir, this debate has turned mainly upon two points. In the first place, in reference to the disposal of the fee to our School Lands. I am in favor of restricting the Legislature to a very great extent upon this subject. I think that as the country progresses, and the value of real estate rises the lands should be retained in the possession of the State until they will sell for a sum that will make a permanent basis for the fabric of our system of Common Schools to rest upon.

The other point to which this debate has had reference is the distribution of that fund when the lands have been disposed of. The report before us proposes to allow to each township the proceeds of the sale of the School Lands within its own limits. Now, sir,

look at the condition of our School Lands in the more densely settled portions of the Territory. Wave after wave in the tide of emigration has succeeded and settlers have located on the School Lands until there is scarcely a section of valuable land that is not claimed by pre-emption between the Mississippi and Minnesota Rivers. Then comes the law of Congress legalizing these pre-emptions, and the result is, that if each township is entitled only to the proceeds of the lands sold within its own limits, more than one-third the people of the whole Territory will be entirely deprived of the benefits of the grant of Congress.

Mr. TUTTLE. I am opposed to the amendment. There is no method we can adopt by which we can reach perfect equality. Now, sir, I came to this Territory some fifteen or eighteen years ago. There was not a School Section then taken; but in the course of time it was said that you could select just as good lands further West, and so they were occupied, and so they will continue to be occupied if the sale is reserved for ten years as it is proposed. I am in favor of not longer withholding these lands from sale, and I am also in favor of giving to each township the proceeds of the sales of the lands within its limits, and not leaving it to be handled by the politicians who may be in power here in St. Paul, for jobbing purposes.

Mr. GILMAN, I ask the gentleman whether the fund is not for the benefit of the Common Schools of the State?

Mr. TUTTLE. It is, and it is because I wish them to have the benefit of it that I propose it shall be distributed among the townships where it will not be squandered away.

Mr. GILMAN. This question was talked about amongst my constituents before I came to this Convention. The question of giving the School Lands to the several townships was brought up, and they said they would not go for it because it would operate unequally. Many of the townships had no School lands and would be deprived entirely of the benefit of the grant if that policy were adopted. I believe in making a general fund of the proceeds of the sales of these lands and of dividing it equally among the several townships in proportion to their population.

The amendment was agreed to.

Mr. EMMETT moved to amend the section by striking out the following clause:

"Said lands shall not be disposed of otherwise than by lease, for the term of ten years."

And insert in lieu thereof, as follows:

"For the term of ten years, not more than one-fourth of said lands in any township shall be disposed of otherwise than by lease."

Mr. DAVIS moved to amend the amendment by adding "unless the Legislature shall otherwise provide by law."

The amendment to the amendment was not agreed to.

The amendment was also rejected.

Mr. GORMAN. I move to amend by striking out the same clause and inserting as follows :

"And not more than one-third of said lands may be sold in two years, one-third in five years, and one third in ten years."

The object, I believe, is to benefit the present population of Minnesota. I respectfully submit whether there is not something in this consideration. This Territory was organized in 1849, since which time most of the present population of the Territory have come here. My friend from Sibley, (Mr. BROWN,) has been here for nearly forty years. Others have been here thirty, twenty-five, twenty, and so on down, but most have come within the last five or six years. The old pioneers who first came to the Territory, have fought their own way without assistance by the Government. It has been the opinion of some authorities, that the Territory has no right to dispose of the School lands until it comes in as a State. Whether that be so or not, it is the province of this Convention to make provision for their sale now, and I ask if the people who are here now, do not as well deserve the benefit of this fund as those who will be here two years hence? Was it not intended for the benefit of the present generation as well as those who are to come after us? But gentlemen say that if the lands are sold the Legisture will squander the money. Sir, shall we have Legislatures ten years hence who are more pure? Are we to keep the fund always locked up for fear somebody will squander it away? I think the plan I have proposed is as safe and beneficial in every respect as any we can devise, and I hope it will be adopted.

The amendment was agreed to.

On motion of Mr. DAVIS the section was further amended by adding "but the lands of the greatest value shall be sold first."

Mr. EMMETT moved to strike out the first two paragraphs in section two, and insert in lieu thereof the following :

"Not more than one-fourth of said lands shall be disposed of otherwise than by lease for the first ten years."

The amendment was not agreed to.

On motion of Mr. KINGSBURY, the Committee rose, reported progress, and asked leave to sit again.

Leave was granted.

Mr. EMMETT from the Committee on Counties and Towns, submitted a report which was laid on the table.

AMENDMENTS TO THE CONSTITUTION.

On motion of Mr. GORMAN, the Convention resolved itself into Committee of the whole, Mr. GILMAN in the Chair, on the report of the Committee on "Amendments to the Constitution."

The following is the report of the Committee :

AMENDMENTS TO THE CONSTITUTION.

SECTION 1. Whenever a majority of both Houses of the Legislature shall deem it necessary to alter or amend this Constitution, they may propose such alterations or amendments which proposed amendments shall be continued to the next Legislative Assembly and be published with the laws which have been passed at the same Session, and if a majority of each House at the next Session of said Assembly shall approve the amendments proposed, by yeas and nays, said amendments shall be submitted to the people for their approval or rejection ; and if it shall appear, in a manner to be provided by law, that a majority of voters present and voting shall have ratified such alterations or amendments, the same shall be valid to all intents and purposes, as a part of this Constitution.

SEC. 2. If two or more alterations or amendments shall be submitted at the same time, it shall be so regulated that the voters shall vote for or against each separately; and while an alteration or amendment which shall have been agreed upon by one Legislature, shall be awaiting the action of a succeeding Legislature or of the people, no additional alteration or amendment shall be proposed.

On motion of Mr. GORMAN, the Committee rose and reported the Article back to the Convention without amendment.

The Article was then ordered to be engrossed.

On motion of Mr. BARRETT, the Convention then at half-past five o'clock, adjourned.

TWENTY-SEVENTH DAY.

THURSDAY, August 13th, 1857.

The Convention met at 9 o'clock A. M.

Prayer by the Chaplain.

The Journal of yesterday was approved.

ENGROSSED ARTICLES.

Mr. A. E. AMES, Committee on Enrollment, presented the following report:

Your Committee on Enrollment report as correctly engrossed, the following named Articles, to wit:

On Name and Boundaries, and Acceptance and Ratification.

A. E. AMES,
C. J. BUTLER, } Committee.

SEAL OF THE STATE, &C.

Mr. NORRIS, from the Committee on the Seal of the State, Coat of Arms, and design of the same, presented a report, which was laid on the table.

SCHOOL FUNDS, EDUCATION AND SCIENCE.

On motion of Mr. SETZER, the Convention resolved itself into Committee of the Whole and renewed the consideration of the report of the Committee on School Funds, Education and Science.

Mr. CURTIS in the Chair.

Mr. NORRIS moved to amend Section 2, by striking out the words "the income arising therefrom."

The amendment was agreed to.

Mr. SETZER moved to insert the following as an additional Section:

SEC. 3. No religious instruction of any kind shall be given in public schools in this State.

The amendment was not agreed to.

Mr. EMMETT. I do not like the phraseology of Section 4. It seems to me there is an attempt to cover up something. I know this, however, to be a fact: there has been a great deal of difficulty about the University, and about the funds which have been raised for its support, and the manner of raising them. If the purpose is to settle these difficulties now, I do not think here is the place to do it. I think the location of that University, and the application of the fund, is a fair subject of legislation, and if there is anything wrong, it should be left open to the Legislature to correct. I move to strike out the Section.

The Section is as follows:

SEC. 4. The location of the University of Minnesota, as established by existing laws, is hereby confirmed, and said institution is hereby declared to be the University of the State of Minnesota. All the rights, immunities, franchises and endowments heretofore granted or conferred, are hereby perpetuated unto the said University, and all lands which may be granted hereafter by Congress, or other donations for said University purposes, shall vest in the institution referred to in this State.

Mr. SIBLEY. I am opposed to the amendment, not that I care a great deal what is done with the whole Article since it has been put in its present shape, but the gentleman seemed by his remarks to have rather animadverted upon the manner in which the University is conducted. As I happen to be a Regent of that University, I have something to say in reply.

Mr. EMMETT. The gentleman will allow me to disclaim any

reflection upon him. I said there have been difficulties connected with that institution. I do not know whether they have arisen from mismanagement or otherwise.

Mr. SIBLEY. I do not know that there have ever been any very serious difficulties. The gentleman should not make such sweeping assertions without specifying to what he refers. It is true there have been a variety of opinions as to whether the University ought to be located here, there, or in some other place, but I know of no important difficulty which has arisen.

Mr. EMMETT. I do not know that I can specify precisely the nature of the difficulty to which I referred. I have been consulted as a lawyer upon a subject which I think has reference to the raising of some fund by an act of the Legislature.

Mr. SIBLEY. The Legislature passed an act authorizing the University to issue bonds, and probably the gentleman was asked his professional opinion as to whether these bonds could be legally issued. However, if the gentleman meant nothing by his reflections, as far as I am concerned, I have nothing more to say.

Mr. EMMETT. I meant nothing of the sort.

Mr. A. E. AMES. As Chairman of the Committee, I do not know that I undertook to cover up anything in this Article. If there has been any difficulty in reference to the appointment of Regents, or giving them authority under the law, I know nothing about it. It was necessary to incorporate something into the Constitution that would secure to the University of Minnesota, the liberal donation made by Congress for that purpose, and I am astonished that in this Article, simply for the encouragement of Education and Science, we should be charged with trying to cover up anything. I disclaim any such intention on my part, or that of the Committee.

Mr. EMMETT. This University has been located by an act of the Legislature. If it has been properly located, there is no necessity of affirming it here. If it has been improperly located, of course we ought not to affirm it. The location has been in consequence of authority of law, and I do not see why we should have anything to do with it. If you look a little further on in the Section, you will see that its phraseology, which on its face seems to be intended to secure the immunities, franchises and endowments which it has already received, has really the effect of securing also to it all other donations for University purposes which may hereafter be made by Congress to the State. Now, sir, the gentleman has disclaimed all intention of covering up anything, and, of course, I take his word for it, but I tell you, sir, there is a nigger under the fence in some place. (Laughter.)

The CHAIRMAN. The gentleman is out of order in saying there is a nigger in the Convention. (Great Laughter.)

Mr. EMMETT. The effect of this Section is simply to lay at the feet of that University every donation that may hereafter be made for University purposes. Now, sir, I repeat that if this institution has been located by authority of law, as they claim, there is no necessity under Heaven for putting any provision in the Constitution to affirm it. It seems to me the whole provisions in this Section are wrong, and I hope the Section will be stricken out.

Mr. SIBLEY. The gentleman seems to be disposed to put the University of Minnesota on trial before this Convention. Now, sir, I am perfectly willing it should be tried here. I have no particular interest in the matter as far as I am personally concerned, but as a citizen of Minnesota I have some pride in having a State institution which will reflect credit upon the State. The gentleman speaks, in his eloquent phraseology, of a nigger under the wood-pile. I dont know what the gentleman means by the assertion. I think, as the CHAIR suggested, that he was out of order. Now, sir, I think the University of the State of Minnesota should be provided for in the Constitution, and with all due respect to my friend from Ramsey, I think that this is the proper place, and that the provisions reported in this section are such as this Convention should adopt. A great portion of the funds with which the University is endowed, have been donated by the citizens of the territory, and when the gentleman talks of a nigger in the wood pile, he must suppose that there has been some misapplication or mismanagement of those funds. I stand here as a Regent of this Institution, having been a Regent for the last eight yers, ever since its commencement, and defy any scrutiny that any man may choose to exercise with reference to its managers and Regents. Now, sir, I do not like these indefinite insinuations which the gentleman chooses to indulge in. If the gentleman has any reasons to give against the management of this institution, let him state them openly. The simple object of this section, as I understand it, is to make one great institution in the State for University purposes; nothing else under Heaven. The donation of Congress to the State, for which this section provides, has already been made. The object is, I say again, to make the institution such as will reflect credit on the State. If there is anything else I am perfectly ignorant of it and so, I believe, is the Chairman of the Committe who reported the article.

Mr. EMMETT. I would not have attempted to have said anything in reference to this institution if I had not been directly re-

quested to do so; but, sir, I am exceedingly unfortunate in the expression of what I intend to say. It seems impossible for me to make a remark but what some gentleman considers himself trampled on, and I cannot utter language sufficiently strong as a disclaimer to satisfy gentlemen. One reason may be that in my youth I was a stammerer, and I have hardly gotten over it. Until I was fifteen years old I could hardly speak a sentence, and the consequence was, that I was forced of necessity to adopt a very simple vocabulary. I have often to use one expression because I cannot pronounce another, and I hope gentlemen will accept this as a sufficient apology for any language to which they may object. I again disclaim any reference to the manner in which this institution has been conducted, for I know nothing about it at all. I think the fact that the gentleman himself has been connected with the management, is a sufficient guarantee that it has been well conducted. But, sir, I again affirm that there is no necessity for providing the location of the institution in this Constitution. My friend says the object is to have one great institution. If we have the funds, I would like to have half a dozen great institutions, and if Congress should hereafter make donations sufficient to endow half a dozen institutions of this kind, it would be an honor to the State to provide for distributing these favors. I don't think it necessary to provide that all future donations shall be expended to the glory of the institution located at St. Anthony. I believe in doing justice to the balance of the Territory.

Mr. HOLCOMBE. I would like to ask the gentleman if he considers that this section prohibits donations of land to other institutions?

Mr. EMMETT. The section reads,

"And all lands which may be granted hereafter by Congress or other donations for said University purposes, shall vest in the institution referred to in this State."

The institution referred to is the one which has been located as the University of Minnesota, under existing laws, which institution is declared in this section to be the University of Minnesota, to receive all donations for University purposes hereafter to be made. I see no necessity or propriety in making such a provision in our Constitution, The donations already made are sufficiently ample to endow that institution, and why prohibit grants which may be made in future from being applied to other institutions in other portions of the State? I hope the section will be stricken out.

Mr. HOLCOMBE. I think the difficulty may be removed by striking out the sixth, seventh and eighth lines which vest future donations in this particular institution.

Mr. EMMETT. If the gentleman makes that motion I will withdraw my motion to strike out the whole section.

Mr. HOLCOMBE. I make the motion.

Mr. SIBLEY. I think the effect of this clause is not understood by gentlemen who wish it to be stricken out. Now, sir, the only object of that clause is to secure to the University of Minnesota the lands which Congress has already granted to the Territory. As the matter now stands, not one acre of that grant will vest in this institution.

Mr. HOLCOMBE. I am under the impression that the grant referred to by the gentleman, has already been given to the University.

Mr. SIBLEY. Only in reserve. Not one acre has yet vested for the benefit of the University, and the sole object is to secure the seventy-two sections granted in the Enabling Act for the benefit of this institution. The lands have to a great extent been selected, but the title has not yet vested in the institution.

Mr. EMMETT. I have no objection to this being declared the University of the State, for the purpose of securing the land granted in the Enabling Act, and I think the section will accomplish that purpose, if the amendment proposed by the gentleman from Washington, (Mr. HOLCOMBE,) is adopted.

Mr. BAKER. I think this section was drawn up very carefully, and I believe most of the members of the Convention were consulted in reference to its provisions. I have heard a great deal about this University from beginning to end. I have scanned all the actions of its managers, and I believe that not a single thing could be changed for the better. The institution has been endowed liberally by private donations. I believe there is one gentleman on this floor who has given $10,000, and proposes to increase the donation to $50,000. I hope it will be plainly and distinctly stated in this section that the grant of lands made by Congress shall not be given to any other institution.

Mr. WARNER. Being one of the Committee who drafted this report, I will say that this matter was carefully considered in Committee, and it was thought proper and right, inasmuch as heavy expenditures had been made for the University in its present location, that that location should be permanently established. As the matter now stands, the location is a subject of legal dispute. There has been a good deal of feeling existing between certain portions of the Territory in reference to its location, and it is precisely one of those legal questions which ought to be settled beyond all dispute, and I think should be settled here, in the Constitution.

If St. Paul wishes to secure the location of this University, let the question be tested here, and not keep it open for some future Legislature. I, for, one, am in favor of the section precisely as it stands.

The amendment was not agreed to.

Mr. NORRIS. I move to amend by striking out of the section all after the fifth line. The gentleman from Dakota has stated the object of the section, which is to secure to this institution the grant which has heretofore been made by Congress. I think the object a very proper one, and that it will be secured if what follows the fifth line be stricken out. It seems to me that the words which I have proposed to strike out have reference to the future acts of Congress and of individuals as to donations, which we may with propriety leave for the future action of the Legislature.

Mr. SIBLEY. Before the question is taken on this amendment, I wish to make an explanation which I think will satisfy the gentleman who has offered it. As I said before, there are no lands now vested in this University, and the object simply is to secure to this particular institution the seventy-two sections of land donated in the Enabling Act. I think the section is right as it stands, and I hope the gentleman will withdraw his amendment.

Mr. HOLCOMBE. I wish to ask the gentleman if the first three lines of the section do not identify the institution located at St. Anthony, as the one which is to receive these seventy-two sections of land—more than forty thousand acres, said to be worth some $400,000—and whether that is not a sufficient endowment for the institution. I hope that all after the fifth line will be stricken out, and not require all donations which may hereafter be made, to vest in this one institution.

Mr. SIBLEY. I will answer the gentleman. The establishment of the University of Minnesota as a State institution is entirely an original affair. We propose to make it such by Constitutional provision, and that it shall receive this grant of land.

Mr. BROWN. If I understand the section, the lines which it is proposed to strike out have reference to the grant of land made by the Enabling Act, the title to which is not perfected until Minnesota becomes a State under this Constitution, and consequently the lands there donated are referred to as a future grant. That is my understanding.

Mr. SHERBURNE. If I understand gentlemen, they do not disagree as to what they desire to do, but simply as to the form of language used. I suppose the object is to provide for a State University, and that no gentleman has any desire to prevent the

endowment of any other institution by Congress or by individuals. These lands have not yet been granted to this University, because, as the gentleman from Dakota has stated, and as I understand has been decided by the United States Courts, the grant is not perfected until the State is admitted into the Union. I think the section is perfectly good and perfectly safe as it stands, and that no harm will be done if the latter clause is stricken out, as the gentleman proposes. It is entirely immaterial to me, therefore, whether the amendment is adopted or not, as I think the section is safe either way.

The amendment was not agreed to.

Mr. KEEGAN moved to amend by striking out all after the words "in the," in the seventh line and fourth section, and adding in lieu thereof, "People of this State for University purposes, subject to the disposal of the future Legislature."

The amendment was not agreed to.

Mr. BECKER moved to add the following as an additional section :

SEC. 5. The supervision of Public Instruction shall be vested in a State Superintendent and such other officers as the Legislature may direct. The State Superintendent shall be elected or appointed in such manner and for such term of office as the Legislature shall direct, and his power and duties shall be prescribed by law.

The amendment was agreed to.

Mr. DAVIS moved to add the following Section :

SECTION 6. The Capitol of this State shall be permanently located at Belle Plaine, in Scott county. [Laughter.]

The motion was rejected.

On motion of Mr. A. E. AMES, the Committee rose, reported back the Article with amendments, and asked concurrence of the Convention therein.

Mr. BECKER moved to substitute the following for Section 1.

SECTION 1. The Legislature shall encourage by all suitable means, the promotion of intellectual, scientific, moral and agricultural improvements. It shall provide for a system of Common Schools which shall be as nearly uniform as may be throughout the State ; the Common Schools shall be equally free to all children.

Mr. GORMAN. I suppose sir, that the Constitution of our country protects us amply, and that if we put in a clause like that proposed by the gentleman, it will lead to controversy which I trust will not be mooted or sprung here in connection with our Common School system. I refer to the word "Sectarian."

Mr. BECKER. If the gentleman will refer to the amendment as it now stands, he will see that I have left out that word.

Mr. GORMAN. Then I am satisfied. I have only to say with

regard to our Public Schools that they should be perfectly free, and that not one word should be said on the subject of Sectarianism.

The amendment was not agreed to.

Mr. McGRORTY offered the following as a substitute for Section 1:

SECTION 1. Wisdom and knowledge, as well as virtue and religion, are essential to the preservation of the rights and liberties of the people, therefore: It shall be the duty of the Legislature of this State to cherish the interests of Education and Religion and Science, and to establish a general system of public schools; to encourage public and private instruction for the promotion of Religion, arts, science, commerce, trade, manufactures, and natural history of the country; and to adopt all means which they may deem necessary and proper to secure to the people the advantages and opportunities of education and religion.

Mr. SETZER. I think this Convention are not accomplishing the object which they propose when they fail to provide for Sectarian schools. Sir, you cannot get a Catholic citizen to send his children to a school where the Protestant religion and Protestant doctrines are taught by a Protestant teacher, nor will a Protestant send his children unless those doctrines are taught. It is true that in St. Paul, the great centre of the Territory, these difficulties may be provided against, but still there exist a few outside barbarians who are entitled to a little respect. Here, of course, schools can be provided for Catholics and Protestants, but when you go outside, into the country, in a district where there are perhaps fifty scholars of Protestant parents, and ten or twelve of Catholic parents, the Protestants have the majority, and will, of course, select a Protestant teacher, and these ten or twelve Catholic children will be deprived of the benefit of Common Schools.

Mr. McGRORTY. I am a little surprised to hear any gentleman in this enlightened age, opposed to having religious instruction in our Common Schools. It seems to me that the descendants of the old religion-loving Puritans of New England are degenerating very fast, if they consider their children unworthy to be taught religion in the Primary Schools. Gentlemen have but to look abroad over the country to see the effect of these irreligious schools. True, it will not affect me as a Catholic, whether religion is taught in your Public Schools or not. We do no not send our children to your Public Schools. They are educated out of our own private purses. Then if it is for the benefit of the Catholics, that religion is to be excluded from your Common Schools, I say it is pandering too much to us. I have far more dread of infidelity and skepticism, which is spreading through the country, then I have of

any sectarianism. I hope therefore, you will adopt no provision by which religion shall not be taught in the Public Schools.

Mr. CURTIS. I am opposed to the amendment. It is in my judgment a proposition to make the Public Schools of this State Theological Institutions, and I apprehend theology can be taught better in the peculiar institutions established for that purpose. But there is another objection. If the gentleman will have pure religion inculcated in the Common Schools, his amendment must provide for something more than simply religious instructions. Sir, there are principles of morality taught by some of the systems of religion which ought not to be introduced into the Common Schools. You might have free-loveism, you might have Mormonism taught as a matter of public instruction. If gentlemen propose, therefore, that there shall be religious instruction in the Common Schools, they ought to specify what system of religion shall be taught.

The amendment was not agreed to.

Mr. BECKER. I move to amend the first Section, by striking out the following clause:

> Wisdom and knowledge, as well as virtue and religion, are essential to the preservation of the rights and liberties of the people, therefore.

Now sir, I can see no object of incorporating any such sentiments into the Constitution, and I hope the clause will be stricken out.

Mr. CURTIS. I understand the gentleman to move to strike out "wisdom, knowledge and virtue," from this Constitution. I hope the gentleman will not do that. [Laughter.]

The amendment was not agreed to.

Mr. BECKER moved to strike out the words "in literature and science," in fourth line of Section 1.

The motion was not agreed to.

Mr. EMMETT moved to strike out the sentence from the fifth to the seventh line in Section 1.

The motion was rejected.

Mr. BUTLER moved to strike out the words "and natural history "of the country."

Mr. EMMETT. I hope the motion will not prevail. It is very important, in view of the ravages on the crops of the Territory, that we should have the natural history of grasshoppers. [Laughter.]

Mr. CURTIS moved to strike out the words "of the country," after the words, "natural history."

The amendment was agreed to.

Mr. EMMETT moved to amend by inserting after the word, "in-

struction," the words "in the first principles of English grammar and."

Mr. BAKER. I would suggest to the gentleman that he add, "also the first principles of Daboll's Arithmetic."

Mr. McGRORTY moved to amend the amendments by adding thereto the following: "Religious instructions shall be inculcated "in all the Common Schools in this State, according to the religious "belief of the pupils respectively."

The amendment to the amendment was not agreed to, and the amendment was also rejected.

Mr. BAASEN moved to substitute the following for Section 1:

SECTION 1. It shall be the duty of the Legislature of this State to establish a general system of Public Schools.

The amendment was not agreed to.

Mr. STURGIS moved to strike out the words "and private," after the word "public," so as to make it read, "to encourage public instruction."

The amendment was agreed to.

The question being now upon the adoption of the first amendment reported from Committee of the Whole,

On motion of Mr. BECKER, the yeas and nays were ordered.

The question was taken and resulted yeas 27, nays 13, as follows:

YEAS—Messrs. A. E. Ames, Baker, Burns, Baasen, Curtis, Davis, Gorman, Gilman, Holcombe, Keegan, Leonard, Lashelle, Meeker, McGrorty, McFetridge, McMahan, Norris, Nash, Prince, Sanderson, Sherburne, Stacey, Shepley, Sturgis, Streeter, Tenvoorde, Tuttle—27.

NAYS—Messrs. Butler, Becker, Burwell, Bailly, Brown, Chase, Emmett, Kingsbury, Murray, Setzer, Wait, Warner and Mr. President—13.

So the amendment was adopted.

Mr. BROWN. I move to amend section two by striking out the word "schools," and inserting "persons." I will state that in some of the more sparsely settled portions of the Territory, there may be townships in which no schools are established and it would be doing injustice to the persons residing in such localities to deprive them of their portion of the School Fund.

The amendment was not agreed to.

The question being now on the adoption of the second amendment reported by the Committee of the Whole,

On motion of Mr. WAIT, the yeas and nays were ordered.

The question was taken and resulted, yeas 29, nays 14, as follows:

YEAS—Messrs. Butler, Baker, Baasen, Curtis, Chase, Emmett, Gorman, Gilman, Holcombe, Kingsbury, Keegan, Leonard, Lashelle, Meeker, McGrorty,

McFetridge, McMahan, Norris, Nash, Setzer, Sanderson, Sherburne, Stacey, Shepley, Streeter, Tenvoorde, Tuttle, Vasseur and Wait—29.

NAYS—Messrs. A. E. Ames, Armstrong, Becker, Burns, Burwell, Bailly, Brown, Davis, Murray, Prince, Sherburne, Sturgis, Warner and Mr. President—14.

So the amendment was agreed to.

Mr. CHASE moved to insert at the end of the amendment first adopted, the following:

Provided that no portion of said lands shall be sold for less than ten dollars per acre nor otherwise than at public sale.

Mr. STURGIS moved to amend the amendment by inserting "five" instead of "ten."

The amendment was not agreed to.

Mr. GILMAN moved to amend the amendment by striking out the words "for less than ten dollars per acre nor:"

The amendment was adopted.

The amendment as amended was then agreed to.

The question now being on the third amendment reported by the Committee of the Whole,

On motion of Mr. M'GRORTY, the yeas and nays were ordered.

The question was taken and resulted yeas 28, nays 10, as follows:

YEAS—Messrs. Armstrong, Butler, Becker, Baker, Burns, Curtis, Cantell, Chase, Emmett, Gorman, Gilman, Holcombe, Kingsbury, Keegan, Leonard, Lashelle, Meeker, McGrorty, McFetridge, McMahan, Norris, Nash, Setzer, Sanderson, Stacey, Shepley, Streeter, Tenvoorde and Tuttle—28.

NAYS—Messrs. A. E. Ames, Burwell, Bailly, Brown, Davis, Murray, Sherburne, Sturgis, Warner and Mr. President—10.

So the third amendment was adopted.

Mr. SETZER gave notice that on to-morrow he should move to reconsider the vote just taken.

Mr. A. E. AMES offered the following as an additional section:

SEC. 5. The State shall be responsible for any loss that may arise from the misconduct or default of any officer or officers having charge of the School Lands, School Funds and interest thereon.

The amendment was not agreed to.

On motion of Mr. BROWN, Section three was amended by inserting after the words "system of" the word "public," so as to make it read "efficient system of Public Schools."

The question now being on the fourth amendment reported by the Committee of the Whole, to add the following as an additional section:

SEC. 5. The supervision of Public Instruction shall be vested in a State Superintendent and such other officers as the Legislature may direct. The State Superintendant shall be elected or appointed in such manner and for such term of office as the Legislature shall direct, and his power and duties shall be prescribed by law.

Mr. WARNER said: I am opposed entirely to any such system of public plunder. I have seen it carried out in other States, and it is nothing more nor less than centralizing a power which justly belongs to the people. It is taking out of the hands of the people that power which they should possess to control and regulate their own domestic concerns. It is placing too large a patronage in the hands of one man. The system has been carried out in the State of Ohio, and it increases the taxation of that State nearly one-half. They have there a State Superintendent, a Subordinate Superintendent, a Board of Education in every School District, and School Commissioners in every County, all of whom are supported out of the public crib. I hope we shall not have such a system inaugurated in this State.

Mr. SHERBURNE. I think I voted for that section in Committee, but I voted, as I have done in some other instances, for what I think should be left to the Legislature. It may be well to have such an office as Superintendent connected with our school system, but I am opposed altogether to any provision that shall put it out of the power of the people, by this Constitution, to control their schools according to their own way.

Mr. WAIT. I see no great bugbear in the provision before us. If gentlemen will refer to the Constitutions of the States of New York, Wisconsin, and several other States, they will find that they all have Superintendents of Public Schools. It is necessary that some general system should be provided for.

Mr. BECKER. I introduced that amendment myself and I did not do it for the purpose of establishing a system of public plunder. It is necessary to provide for some system of public instruction. Gentleman seem to think that the people of Saint Paul desire to centralize all the power of the Government. Now sir, for one, if it is necessary, I disclaim any such intention. I had no such idea at the time I offered the amendment, and I do not now believe there is anything of the sort in it. I have been familiar with the working of the system in several of the States, and I offered the amendment, as I have said, for the reason that I thought we ought to incorporate some system of public schools into the Constitution. The amendment does not go into any of the details of Legislation. There is nothing said about the salary of the Superintendent, nothing in reference to the appointment of a sub-superintendent and no system of public plunder or centralization. All the details are left to the Legislature. If they desire to establish a system of public plunder, they may do so, but there is nothing of the kind in the Constitution.

Mr. WARNER. I have no desire to cast any personal reflections upon any gentleman. I submitted some remarks against the amendment because I thought it a very improper one. In the State of Ohio the salaries of the different officers connected with the public school system amount to a very large sum. The patronage of the State Superintendent is very large, and all the public funds for school purposes are at his disposal. The whole system is one of centralization, and I think I was justified in designating it as a system of public plunder.

The amendment reported by the Committee of the Whole as an additional section was not concurred in.

Mr. NASH offered the following as an additional section:

SEC. 5. Whenever thirty or more scholars are in any place, they shall be declared a District and be entitled to their proportion of the Public Funds.

The amendment was not agreed to.

On motion of Mr. BROWN the Convention adjourned until half past two o'clock P. M.

AFTERNOON SESSION.

The Convention met at half past two o'clock P. M.

IMPEACHMENT AND REMOVAL FROM OFFICE.

On motion of Mr. SETZER, the Convention resolved itself into Committee of the Whole on the report of the Committee on Impeachment and Removal from office, (Mr. A. E. AMER in the Chair.)

The following is the report of the Committee:

IMPEACHMENT AND REMOVAL FROM OFFICE.

ARTICLE 1. The Governor, Secretary of State, Treasurer, Auditor, Attorney-General, and the Judges of the Supreme and District Courts, may be impeached for corrupt conduct in office, or for crimes and misdemeanors; but judgment in such cases shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust or profit, in this State. The party convicted thereof shall nevertheless be liable, and subject to indictment, trial, judgment and punishment according to law.

ART. 2. The Legislature of this State may provide for the removal of inferior officers from office, for malfeasance or misfeasance in the performance of their duties.

ART. 3. No Judicial officer shall exercise the duties of his office after he shall have been impeached and before his acquital.

ART. 4. On the trial of an impeachment against the Governor, the Lieutenant-Governor shall not act as a member of the Court.

ART. 5. No person shall be tried on impeachment before he shall have been served with a copy thereof at least twenty days previous to the day set for trial.

Mr. CURTIS moved to strike out the word "judicial" where it occurs in the third Section.

The motion was agreed to.

Mr. WAIT moved to amend the Section by inserting after the word "officer" the words "of this State."

The amendmrnt was not agreed to.

On motion of Mr. BROWN, the Committee rose, reported back the Article with an amendment and asked concurrence of the Convention.

The report of the Committee was then concurred in and the Article ordered to be engrossed.

COUNTIES AND TOWNSHIPS.

On motion of Mr. BROWN, the Convention resolved itself into Committee of the Whole on the report of the Committee on Counties and Townships, (Mr. SHEPLEY in the Chair.)

The following is the report of the Committee:

COUNTIES AND TOWNSHIPS.

SECTION 1. The Legislature may, from time to time, establish and organize new Counties, but no new County shall contain less than four hundred square miles; nor shall any County be reduced below that amount; and all laws for removing County seats shall, before taking effect, be submitted to the electors of the County or Counties to be effected thereby, at the next general election after the passage thereof, and be adopted by a majority of such electors.

SEC. 2. Laws shall be passed providing for the organization, for municipal and other purposes, of each Congressional township or fractional township in the several Counties in the State, provided that when a township is divided by County lines, or does not contain one hundred inhabitants, it may be attached to one or more adjoining townships or parts of townships, for the purposes aforesaid.

SEC. 3 Provision shall be made by law for the election of such County or Township officers as may be necessary.

SEC. 4. Each County and Township organization shall have such powers of local taxation as may be prescribed by law, but the credit of neither shall ever be given or loaned in aid of any individual, association or corporation.

SEC. 5. No money shall be drawn from any County or Township treasury, except by authority of law.

Mr. BROWN moved to amend Section one by striking out the words "four hundred" where they occur and inserting "five hundred and fifty."

Mr. EMMETT. I will say that the Committee which had this subject under consideration were not very particular as to the number of Townships they should require for a County. They thought it best to leave it so that one County should not consist of less than twelve townships or four hundred square miles.

Mr. BROWN. Except in some cases, the Legislature has heretofore adopted five Townships east and west by four north and south, but it is well known that there have been special cases in which less than twelve Townships have been incorporated into a County. I think that four Townships square is probably as small as counties ought to be made and for that reason I have offered my amendment.

Mr. GORMAN. I may as well make the single remark I desire to make upon this amendment as anything else. The Convention will recollect that some time ago the question arose as to the effect of this Constitution on the existing laws of the Territory. The same question arises now. It is very manifest and capable of demonstration that when this Constitution is adopted, unless provision is made to the contrary, all the existing Territorial legislation will be null and void, and that the State Legislature will have to remodel and repass every law. Now, sir, there are one or two instances where Counties have been organized containing less than four hundred square miles. The Legislature has established them, and if this Convention sees fit we may adopt the rule without exception and require a future Legislature, when it comes to prescribe the boundaries of the respective Counties to bring every County within the rule, or we may except as now provided by law.

Mr. SIBLEY. I ask the attention of the gentleman to the phraseology of the Section as it stands. It says that no County shall be reduced below four hundred square miles.

Mr. EMMETT. I will say that it was the intention of the Committee that this provision should only have application to the formation of new Counties.

Mr. GORMAN. I am aware that the language is "nor shall any County be reduced below that amount," and that the intention was only to apply the provision to new Counties. But, sir, I feel very confident in the position that it must apply to every County in the State, and I think it would be best to put in a clause excepting those now established by law. I want to preserve the County of Winona as it is now organized, because I do not think they will have any Republican County left if the boundaries of that County should be changed.

Now, sir, I want simply to say this: that when you come to form your laws under this Constitution, unless provision is made for continuing in force the laws now in existence, the Legislature will have to commence *de novo*.

Mr. SETZER. I must confess that I still have old fogy opinions,

for I believe that counties were established for the benefit of citizens, and not citizens for the benefit of counties. It seems to me that to require all counties to conform to certain limits without reference to the convenience or benefit of the citizens, is an unusual and improper provision. Now, we find that where a county is thickly populated, it may be required for the benefit of the citizens that that county should contain less than sixteen townships, or four townships square. The gentleman from Sibley says it has been the usual course in the Territory to lay out counties four townships by five. If the gentleman will examine, he will find that there is not a single county that has been laid out in that way, which has not been divided again as soon as it became populated. The county of Steele was cut in two and two counties have been formed, three townships by four. The county of Ramsey has been cut in two, and so the gentleman will find in reference to every county formed with these limits.

Mr. BECKER. I feel it to be my duty to make one suggestion in reference to this matter. I think it is very probable that there may be different points in the Territory where it may be desirable to embrace a county and municipal organization in one organization. For instance: as a citizen of St. Paul, when we come to have thirty, forty or fifty thousand inhabitants, I should be in favor of making the City of St. Paul a county, for several reasons, and among others, on account of greater economy to the tax-payers of the city. But if this provision were to be incorporated in the Constitution, it would be impossible to do anything of the kind. I think it is usual, where large cities spring up in a State, to embrace the municipal and county organization in one organization. For that reason, unless I have some more light upon the subject, I shall oppose inserting any such provision into the Constitution. There may be other places similarly situated, in which the tax-payers may require the same organization.

Mr. MEEKER. This limitation of counties to a certain specified number of square miles is no new thing in a Constitution. The State of Missouri has a similar provision; the State of Iowa has identically the same provision, and I think there are others. The object is not to interfere with the wishes of the citizens, nor to defeat any object for which counties should be organized. The gentleman from Washington was correct in saying that counties should be organized for the benefit of citizens, but it is desirable in this Western country, to adopt some rule by which the county boundaries and county seats shall be permanently fixed. As the thing now stands, there is hardly a county that continues the same

limits and the same county seat for more than one session of the Legislature. Counties are cut up as they become more densely populated, and county seats are changed for the benefit of speculators instead of that of the people. I think some limitation should be fixed here in the Constitution, which will give us some permanency in the future.

Mr. BROWN. It is well known that the great business of the Legislature for the last several years, has been the changing of county lines. It is well known that the Legislature has been surrounded by town-site speculators, every one endeavoring to get a county carved out, no matter what the size may be, so as to give a central geograpical position to his particular town. The object is to defeat any subsequent difficulties of this kind. I think the gentleman from Dakota (Mr. SIBLEY) has an amendment prepared, which will cover any difficulty in reference to cities. Beyond that difficulty, I see no reason why we should not adopt the same system of county lines as has been adopted in Iowa.

Mr. EMMETT. I will say one word in reference to the number of townships, merely as a matter of opinion. I believe a large proportion of the counties already organized are below the number fixed in this Section. I ask the gentleman from Washington if his county is not below that number. I think there are some eight or ten counties in the Territory, containing less than twelve townships of land.

Mr. SETZER. I think Washington county is about five townships long, and not quite two wide.

Mr. EMMETT. That would be less than ten townships.

The amendment was not agreed to.

Mr. SIBLEY. I move to insert in the third line, before the word "county," the word "organized," so that it will read: "nor shall any organized county be reduced below that amount."

Mr. SHERBURNE. I confess that I am not able to see the object of the gentleman in making that motion. It strikes me that if a distinction is to be made, it should be precisely the reverse of the gentleman's proposition. I wish to state here that I think well of the proposition which is contained in this Section of the Report of the Committee. It does seem to me, as has been remarked by the gentleman, that in consideration of the past action of the Legislature of this Territory, we should take some means by which the counties shall be not only preserved a proper and respectable size, but shall have some permanence in their organizations. I should favor a proposition which would require a two-thirds vote, or at least a three-fifths vote—something more than a majority to

remove a county seat from any place where it had been established. The situation in which we are placed in this Territory is one which perhaps, we should never see in one of the old States. But, sir, I say again that we should adopt some means by which the men who come to our Territory may rely, with some degree of certainty, on the lines of counties and upon the places where County Courts are to be held. I believe it is contemplated that counties shall consist of about twenty townships. Now, it seems to me better that counties should be of some size in order to carry on their business economically, and for the convenience of the inhabitants. It has been well remarked by several gentlemen that our county lines and county seats have been changed from year to year. I have not been able myself to keep up with the legislative proceedings, and I do not know at this moment all the changes that have been made. I do not think that county seats ought to be changed without good reason, or upon the whim and caprice of a single voter. If it is allowed, we shall have the changes going on from year to year.

Mr. SIBLEY. My intention is this: it is known that we have a very large district of territory which is sparsely populated. I presume gentlemen do not want to restrict the action of the Legislature in the formation of new counties out of this Territory. I think it would be well to provide that no new county shall be organized until it shall contain a sufficient number of inhabitants to justify an organization. Now, sir, here are counties extending to our Western boundary, and gentlemen certainly do not propose to restrict the Legislature to the limits fixed in this section, in reference to these unsettled counties. The intention of my amendment is that the restriction placed upon the Legislature shall apply merely to the organized counties, but that, so far as the unorganized counties are concerned, the Legislature shall be left to pursue the dictates of their own judgment.

Mr. BROWN. I am decidedly opposed to giving the Legislature authority to organize small counties out of the territory now unorganized. Suppose the owner of some town site in one of the frontier organized counties wishes to get his town made a county seat; all he has to do is to get it attached to a new county formed out of the unorganized territory for his own benefit. The Legislature may bring it down to two or three townships, so as to suit the locality to be benefitted by it. Now, sir, I hold that a territory should be carved out into counties previous to settlement, and that when they are settled up these lines should not be changed. The Legislature should not be allowed to change these county lines and seats to suit the caprice of every speculator.

Mr. SIBLEY. The gentleman has had much more legislative experience than I have and he seems to have such a distrust of these bodies that I am really convinced by his reasoning and will withdraw my amendment.

Mr. CHASE. I move to insert in the fourth line after the word "amount," "and no county lines already established by law shall be "changed without submitting the question to a vote of the people "of said county, and receiving a majority of votes in favor of such "change."

Mr. WARNER. I am in favor of this section precisely as it stands. I do not wish it to be altered in a single particular. I have not heard any amendment introduced or proposed which would improve it. Every one who knows anything about the action of the Legislature at its last regular session, and the proceedings of the extra session, knows full well how many of the counties were changed and cut up for the benefit of certain townships, leaving counties not more than three or four townships square with a population of perhaps six or eight hundred. Now, sir, this is a matter which ought to be provided for in the Constitution. We ought to provide that counties shall cover not less than a certain number of square miles. I am in favor of the section as it stands, and hope it will not be amended.

The amendment was not agreed to.

Mr. SHERBURNE. I have an amendment which I will offer in the seventh line. It is to strike out the word "majority," and insert "three-fifths." I have already indicated my opinion why I think such a vote should pass.

Mr. BROWN. I hope the amendment will not prevail. I think the section as it stands provides all that we ought to require. It reads:

The Legislature may, from time to time, establish and organize new counties, but no new County shall contain less than four hundred square miles: nor shall any County be reduced below that amount; and all laws for removing County seats shall, before taking effect, be submitted to the electors of the County or Counties to be effected thereby, at the general election after the passage thereof, and be adopted by a majority of such electors.

Now, it will be perceived that you not only require a majority of the electors who vote, but a majority of all the electors in the county. I think that is as much as we ought to require.

The amendment was not agreed to.

Mr. GORMAN moved to add the following to the 1st section:

"Counties now established may be enlarged, but not reduced below four hundred square miles."

The amendment was agreed to.

Mr. EMMETT moved to amend section 1 by inserting after word "laws," in fourth line, "changing county lines in counties already "organized or."

The amendment was agreed to.

Mr. SIBLEY moved to insert the following as an additional Section:

"SEC. 2. The Legislature may organize any City into a separate County when it has attained a population of twenty thousand inhabitants, without reference to geographical extent, when a majority of the electors in which such city may be situated, voting thereon, shall be in favor of a separate organization."

Mr. CHASE moved to amend the amendment by striking out "twenty" and inserting "ten."

Mr. GORMAN. I hope that amendment will not be adopted. I suppose my friend will agree with me that in counties, cities and representative districts, reference should be had to commerce and wealth as well as mere population. I think that under no circumstances should counties be reduced to less than four hundred square miles, as a matter of economy, and to enable them to keep up a more efficient system of internal police.

Mr. SIBLEY. The gentleman again shows his disposition to centralize power. I think the very reason he has urged in reference to this section is the very reason which should operate upon the minds of gentlemen to put it out of the power of those who think as he does to establish great central, monied and populous organizations. I think that when the population of a city exceeds 20,000 the Legislature should have the power to submit it to a majority of the electors whether it shall be organized into a separate county. It appears to me to be good Democratic doctrine that if a majority of the people desire to be organized into a separate county they should have that right. It strikes me that when they have got 20,000 inhabitants in the city of St. Paul, they ought to be organized into a separate county if it is the wish of a majority of the people.

Mr. BECKER. I am most decidedly in favor of the amendment. There are certain reasons which I think ought to actuate the Committee in inserting the provision into the Constitution. In the first place I think it is obvious that large cities and counties should be circumscribed within the same limits. I think the government would be a great deal better and far more effective by allowing the city and county organizations to be one. My experience as a citizen of St. Paul has satisfied me that the people of our city would not be afraid of losing any power or influence by reducing our county limits, and I hope the amendment will prevail. I think the

time may come, and in my opinion it has already come, when it would be desirable to have such an organization.

Mr. MEEKER. So far as my knowledge extends, I do not know any city in the whole valley of the Mississippi which comprises a county within itself—not even the City of New-Orleans. The City of St. Louis does not; Chicago does not; and New-York does not.

Mr. BECKER. New-York does.

Mr. MEEKER. Then we will exclude New-York and St. Paul. But suppose you were to apply the provision to St. Paul, in what condition would it leave the symmetrical County of Ramsey? Why, Sir, it would extend a narrow irregular strip almost from Point Douglas to Crow Wing. Recollect that while this is a privilege given to the city, it may be a serious detriment to the county, and it seems to me that we ought to incorporate no such provision as this in the Constitution. I think it is a novel one, probably not to be found in any other Constitution in the United States.

Mr. SETZER. The gentleman says we are incorporating into our Constitution a provision not to be found in any other Constitution in the United States. I admit it for the sake of argument. But we should also recollect that there is another Constitutional provision requiring every county to contain a certain number of square miles. Now, Sir, when one of these counties contains a city of 20,000 inhabitants, the rural district of the county ought not to be deprived of a voice in its government, as they would be by the large preponderance of population in the city, and I think it is due to the rural districts that the city should be set off from the county by a separate organization.

Mr. CURTIS. If that is so, then the vote ought to be submitted to the people of the rural districts whether they shall be relieved from the city, instead of to the people of the city, whether they shall be set off from the county.

The amendment to the amendment was not agreed to.

The amendment was adopted.

Mr. SETZER moved to strike out the word "shall" and insert the word "may" in Section 2.

The amendment was agreed to.

Mr. BROWN moved to strike out the word "and" where it occurs in the second line, and insert "or," so that it should read "municipal or other purposes."

The amendment was not agreed to.

Mr. BROWN. There is another amendment I wish to offer. If I understand the reading of this section, if any organization takes place in any township, it must extend to all the townships in the

State. I move to strike out the word "each" and insert "any," so that the Legislature may have power to organize any one township without making it obligatory upon them to organize the whole.

Mr. BECKER. Such an amendment is hardly necessary. I suppose that when these townships are organized at all, it will be done by a general law of the Legislature, and that they will only be organized as the exigencies may require. Then when the proper time arrives in the history of each township, it will be organized under this general law. If we adopt the proposition of the gentleman, the result will be that there will have to be a special law for every township which is organized. The Legislature can regulate that matter better than we can.

Mr. BROWN. That is exactly the reason why I have offered my amendment. I wish to give them the power to do so. As the Section reads now, if the Legislature organizes any one township it must organize each Congressional township in the Territory. All I wish to do is, not to make that obligatory upon the Legislature.

Mr. EMMETT. The Section, as it now reads, gives the Legislature power to organize each township separately whenever it shall contain one hundred inhabitants: that is the construction the Committee intended to be given to the word "each."

The amendment was agreed to.

Mr. SHERBURNE moved to insert the word "town" after "other" in the second line of the second Section.

The amendment was agreed to.

Mr. SIBLEY. I offer the following as a substitute for Section four:

SEC. 4. Each County and Township organization shall have such power of local taxation as may be prescribed by general laws, and the credit of a County may be given or loaned in aid of any association or corporation, to an extent not exceeding two-fifths of its taxable property.

It will be perceived that the substitute I offer incorporates a very different principle from the one which has been incorporated by the Committee. I hold that when the majority of the people of any county or township desire to aid or encourage any public improvement, they should have the right; and I think the restriction which I have proposed, that the aid given shall not extend to more than two-fifths of the taxable property, is sufficient. There are several of our counties that want to take stock in railroads, and I do not see why they should be prohibited from doing it if the people desire it.

Mr. BAASEN. I should not desire to see counties or townships prohibited absolutely from loaning their credit for certain purposes.

I am myself in favor of allowing them to loan their credit for railroad purposes, and I would prefer that the matter should be left in the hands of the Legislature.

Mr. SHERBURNE. I am certainly opposed to the amendment. It is possible that the Section here could be improved. I profess to be a Democrat, and believe in a Democratic school of politics. I do not know what the experience of gentlemen here may have been as to loaning the credit of counties and towns, but I know that in most of the Eastern States they are never permitted to loan one dollar in aid of societies, internal improvements, railroad corporations, or for any other purpose whatever, without an express act of the Legislature. I am aware that the same idea, to a certain extent, is incorporated here; but under another provision of our Constitution, we are to have general laws by which the towns and counties are to be governed, which would be inconsistent with the idea of allowing the Legislature to regulate this matter by special laws. Then, under this amendment, the effect will be to allow each town or county to go into debt to the amount of two-thirds its entire taxable property. Why, sir, I have seen in the old States instances where counties under a temporary excitement on the subject of railways or canals would plunge themselves into a debt from which they could never be able to extricate themselves. I trust gentlemen will consider for a moment before they adopt such a provision.

Mr. SIBLEY. The gentleman says he is a Democrat, and I suppose the inference to be drawn is that those of us who support this amendment are not Democrats.

Mr. SHERBURNE. I beg the gentleman's pardon. If that inference is to be drawn, I take back everything I have said.

Mr. SIBLEY. I think if the gentleman will bring his Democracy to bear upon this matter he will be in favor of the amendment. The Committee have provided in this Article that under no circumstances shall the people of a county or of a township lend their credit for any purpose whatever to any individual, association or corporation. Now, sir, I do not know what the gentleman's experience may have been in the State from which he comes, but I believe he will find that it has been the practice, invariably, in the Western States to allow the people to exercise their own discretion to some extent in the matter of loaning their credit. If they want the privilege, I do not see why it should be refused them. I think it is anti-Democratic to say that the people shall not do what they please. It is right to restrain them to a certain extent, lest in moments of excitement they may go farther than the dictates of

safety or prudence would permit; but, as a general principle, I do not believe that the gentleman will stand up here and say that as a Democrat he is opposed to giving the people the right and power of doing as they please with their own property.

Mr. SHERBURNE. You have provided that the Legislature shall not run in debt more than two hundred and fifty thousand dollars, and there is no power in the Legislature or people to extend that debt. If gentlemen have found it necessary to so restrict the Legislature of the State by Constitutional provision, would they give loose reins to a town or county on the subject? I say again, it is a doctrine which I trust this Convention will not adopt. It may do no injury. The chances are that it would ruin us.

Mr. SETZER. The gentleman from Dakota (Mr. SIBLEY) has told us that as Democrats we should vote for this amendment. Sir, there is an old instrument which tells us that men are entitled to the enjoyment of their property. I, for one, would never hold that property should be controlled by others than its owners. The amendment of the gentleman from Dakota simply says, in effect, that two-fifths of the property of the Territory shall be put into the hands of those to whom it does not belong. It allows three-fifths of the voters not only to decide what shall be done with their property, but to run every other citizen into debt to the amount of two-fifths of his property. Now, sir, it is a certain fact that a majority of the voters do not always own a majority of the property which they are about to vote away. Property only vests in a portion of the people, while everybody has the right to vote, whether they own property or not; and I ask gentlemen if they will allow persons owning not one cent of property to control all the property in the county? The effect of allowing counties to subscribe for stock in railroads has been tried in several of the Western States. I think they have subscribed in Iowa; but I do know in regard to Missouri that there is nothing which has retarded railroads more than that very proviso. One of the most important railroads in the State—the Hannibal and St. Joseph—was subscribed for largely in this way, and it has never been built: while other railroads, with not half the advantages, and particularly the Pacific Railroad, are coming towards their completion, having been subscribed for only by individuals. I think it is a dangerous amendment.

Mr. McMAHAN. I am in favor of this amendment as a matter of justice. Many portions of this Territory have been well provided for by Congress, while other portions have had no grants of land and will be compelled to build their own roads if they get

them. The stock can never be sold in the market to private individuals, and it is positively necessary to take county stocks in order to raise money to carry on any improvements. I hope the amendment will be adopted.

Mr. GORMAN. This is, in my opinion, one of the most important features of the Constitution, and involves one of the great fundamental principles of the Democratic party. You can scarcely find a Constitution of any State, that has been remodelled within the last fifteen years, that has not this very identical clause with regard to counties and towns. Gentlemen here will recollect as well as I do, that a few years since the different States in the Union, from Maine to Georgia, in 1835, '36 and '37, ran into systems of internal improvement to such an extent as to embarrass their financial credit, and in some instances, particularly in the southern States, repudiation stared them in the face. They appealed to the Congress of the United States for aid, but, sir, the Democratic party, standing on the resolutions of 1798 and '99, refused any assumption of State debts or entanglement with the sovereignty of the States on the part of the general government. They refused to compromise the general government by interfering with State debts or State sovereignty, and that has since been the established policy of the government. The Whig party took the ground that the general government should have that right. The Democratic party, in their National Convention, reiterated the doctrine of no interference with State sovereignty and no assumption of State debts. The issue was made before the country, and what has been the result? That great feature of Democratic government was triumphantly sustained, and every State which has since remodelled its Constitution has incorporated that principle, that the credit of the State shall not be loaned in any manner, in aid of any individual or corporation whatever. Since that time, the States have not become overwhelmed with debt. Why, sir, in 1836, in my own State, more than forty counties subscribed for railroads to more than their ability to pay. Now I think we ought to establish the principle that the State shall never assume the debts of any county, township or corporation whatever. It is carrying out the same great principle which was established by the National Government under Democratic auspices. It is a principle which may be carried down through all the various ramifications of society. For the State to assume the debts of a county or for the general government to assume the debts of a State is to establish a power of centralization and consolidation dangerous to our system of government.

Sir, I am surprised that the gentleman from Dakota should assume in this Convention that it is anti-Democratic to restrict counties and towns in this respect.

Mr. SIBLEY. The gentleman certainly would not misrepresent me. He does not make the distinction, which is everything, in the statement to which he refers. In one case the Legislature acts, while in the other case the matter is brought down to the people. The distinction is as great as between light and darkness.

Does the gentleman pretend to say that the State of Illinois was not a Democratic State and that its Constitution, formed under Democratic auspices, containing this provision, was not a Democratic Constitution?

Mr. GORMAN. I have known States, as well as Democrats, to do some strange things; but, sir, I hope this Constitutional Convention will not precipitate so great a calamity upon the people of Minnesota, as would, in my opinion, result from the adoption of this amendment.

Mr. BAASEN moved to amend the amendment by striking out "two-fifths" and inserting "one-fifth."

The amendment to the amendment was not agreed to.

Mr. STACEY moved to amend the amendment by adding,

"PROVIDED, That before such credit shall be given or loaned, the question shall be submitted to the people of such county in such manner as shall be prescribed by the Legislature of the State."

The amendment to the amendment was not agreed to.

Mr. BROWN. I move to amend the amendment by inserting after the word "credit," the following:

"Of no county shall be given or loaned in aid of any individual or corporation, without express authority of law authorizing the same by a vote of the taxable inhabitants of the county."

Under the original section as it now stands, no town or county can ever be authorized by the Legislature to subcribe for any improvement or to any association for any purpose whatever. Now, what I propose to do, is to give the Legislature power, by special act, to authorize the credit of a county to be loaned in specific cases, provided a majority of the taxable inhabitants shall desire it. I am opposed to giving the people, whether property-holders or not, power to make such loans. I think the taxable inhabitants of the county, who will have to make the payments, should be the persons to decide whether the debt shall be incurred.

Mr. SHERBURNE. I would like to know what distinction the gentleman proposes to make between taxable inhabitants and those not taxable? I suppose every man whose name is on the poll list is taxable.

The amendment to the amendment was not agreed to.

The amendment was also rejected.

On motion of Mr. A. E. AMES, the Committee rose and reported back the Article to the Convention, with amendments, and asked concurrence therein.

The amendments to section one were then concurred in.

On motion of Mr. MEEKER, at 15 minutes past 5 o'clock the Convention adjourned.

TWENTY-EIGHTH DAY.

FRIDAY, August 14th, 1857.

The Convention met at 9 o'clock A. M.

Prayer by the Chaplain.

The Journal of yesterday was read and approved.

ENGROSSED ARTICLES.

Mr. A. E. AMES, from the Committee on Enrollment, presented the following report:

Your Committee on Enrollment report as correctly engrossed, the following named Articles, to wit:

Amendments to the Constitution, Elective Franchise, Preamble and Bill of Rights.

A. E. AMES,
C. J. BUTLER, } Committee.

PROPOSITION OF THE REPUBLICANS.

Mr. GORMAN, from the Select Committee on the proposition of the Republican body from the other end of the Capitol, made the following report:

MR. PRESIDENT—The Committee to whom was referred the Resolutions of that body of our fellow-citizens calling themselves a Convention, now sitting in the other end of the Capitol, have had the same under consideration, and directed the following report:

On the 8th day of August, a member of this Constitutional Convention introduced the same resolutions now before us, with a slight variation, and the Convention by a decisive vote, indefinitely postponed them, by which the Convention simply meant to say, that we, as a Constitutional Convention, could not, and would be utterly unjustifiable in recognizing the body proposed to be conferred with. Thereupon, a caucus was called of the members of this body, to appoint a Committee as such to confer with a similar Committee of a Republican caucus, to consider and devise some means, if possible, to be reported to the respective bodies, by which but one Constitution should be submitted to the people for ratification, or if two Constitutions *must be* submitted to the people,

that they should be voted upon on the same day, to avoid conflict likely to be otherwise created.

This Caucus appointed your present Committee, in the most honorable and dignified manner possible, intending the utmost personal respect for the individuals of the Republican party now meeting daily in the other end of the Capitol. Your Committee informed the Hon. Mr. Galbraith, the mover (as we see by the daily papers) of the Resolutions now before us, and others, that we had been so appointed; that we only expected to meet a similar Committee from a similar caucus. We also stated that we would wait a reply at the room of the Secretary of the Territory in this Capitol, where we patiently waited for two hours or more.

Your Committee had reason to believe that they would be met in the same friendly spirit, in which we intended all our actions and proceedings. We have good reason to believe, from information derived from honorable gentlemen of the Republican party, that soon after we proceeded to the Secretary's room, the Republicans met in caucus, and refused to meet us, but proposed to send a communication to the Convention, directed to the President, enclosing the Resolutions now before us. It is proper to say distinctly, that we adopted the policy of a caucus Committee, out of respect to the feelings and position taken by the Republican party on the question of organization.

We sincerely and conscientiously believed from the first, and firmly believe now, that we are the only legally constituted body to form a Constitution for the people.

We had also been repeatedly informed that the Republican party assumed the same position as to their organization.

Therefore, to the end that neither party should be placed in a position to be recognized by the other, and that neither should have the least cause of complaint, a caucus Committee was thought the most wise and prudent course. Our object was respectful, our conduct was gentlemanly and orderly, our invitation to them to meet us for purposes of conciliation was as polite and respectful as language could express it, and to be met by a flat refusal, has lead to a suspicion, which is fast growing into a belief, that they do not intend to conciliate.

We have appointed the first and, as yet, the only Committee of conference and conciliation. The Republicans to our knowledge, have neither appointed a Committee as a caucus, or in any other capacity.

We are ready to meet any Committee of the Republican party who have been elected to the Convention, *no matter how appointed*, if they propose to deliberate with us, as such Committee, for the welfare of our future State, and to avert any threatened danger to our public or private tranquility, an end which is regarded as far above all party considerations.

We have inaugurated the first proposal for consultation, conciliation and peace. We have the welfare of our Territory and future State at heart. We earnestly hope that no future calamity may befal our people. But we feel that we are the only rightful Constitutional Convention, and we will not officially consent to recognize any other, but all can easily be reconciled if the Republicans will meet our caucus Committee by their caucus Committee, and when met, all amicable arrangements made and concluded, be reported to each party in caucus, and then acted upon calmly, and in that statesman-like spirit which we hope and trust may characterize the deliberations of us all.

If each party act as a Convention, the most perfect equality must exist, each must be recognized by the other as a Constitutional Convention, which necessa-

rily involves a contradiction of the position taken by each. Therefore, if this is not done, we are acting, at best, but as a caucus.

Your Committee respectfully recommend the adoption of the following Resolution:

RESOLVED, That this Constitutional Convention cannot receive any communication of any body of men assuming to be the Constitutional Convention of this Territory, by which the legal character of this Convention can be called in question.

W. A. GORMAN,
JOSEPH R. BROWN,
WILLIAM HOLCOMBE,
HENRY N. SETZER,
W. W. KINGSBURY.

On motion of Mr. BECKER, the resolution was unanimously adopted.

ADDITIONAL STATIONERY.

Mr. WARNER introduced the following resolution:

RESOLVED, That the Secretary be authorized to purchase an additional amount of stationery to the amount of two hundred dollars.

The resolution was adopted.

COUNTIES AND TOWNSHIPS.

The question next in order being the consideration of the amendments reported by the Committee of the Whole on the report of the Counties and Townships, and the question pending being upon concurring in the following as an additional section:

The Legislature may organize any city into a separate county, when it has attained a population of 20,000 inhabitants, without reference to geographical extent, when a majority of the electors in the county in which such city may be situated, voting therein shall be in favor of a separate organization.

Mr. GORMAN said: There is no member of this Convention who is more loth to occupy its time for even a few minutes at this late period of the session, than I am, but sir, I cannot consent to see this proposition of special Legislation affecting the city of Saint Paul,—for that is the proposition—which may have the effect of increasing our rate of taxation, perhaps one-third, passed in this Convention without raising my voice against it. Sir, what reason is there, when you make a general provision requiring all counties to be organized not to contain less than four thousand square miles, to make an exception against the city of Saint Paul? Certainly it should not be made our misfortune that we have a large city. It should not be made the misfortune of any other city, to contain a large population. But sir, the proposition is not only introducing legislation into the Constitution, but it is more, it is introducing

legislation in variance with the principle of equal rights, when for purposes of economy you limit all counties yet to be organized in the State to not less than four thousand square miles, and yet permit a county to be organized here covering simply the limits of the city. The whole effect of the proposition is simply to strike a blow at Saint Paul, and all the arguments, we have heard about centralizing power here in this city amount to nothing. Wherever there is preponderance of votes, there will be the power and representation, and there it should be. I protest against the application of one rule to one portion of the Territory and another rule to another portion. The whole policy of this Convention from the first, has been that our laws shall be general and not special, applicable to all alike. But here comes in a proposition to strike specially at that portion of our population, whose fortune it is to reside in cities—a proposition allowing the Legislature, when a city shall have attained a size of twenty thousand inhabitants, to make a provision to set that city off into a county by itself, under the special legislation of this Constitution.

Suppose it should happen, as is not at all unlikely in a city—that certain politicians for the purpose of securing party ends, should desire to have the rural portion of the county excluded, in order to secure a majority in the city for a particular purpose, the thing would be accomplished merely to subserve political purposes, no matter what might be the effect on the economy or convenience of the County organization. And the evil will not be confined to Saint Paul alone. Saint Anthony will, in a few years reach a population of twenty thousand, and the same object will be accomplished there by ambitious politicians.

Mr. MEEKER. There are none such there.

Mr. GORMAN. I do not believe there are as many as there are here. Now sir, I say if you are going to make general laws, make them applicable to all, and do not set up a sign-board in the Constitution directing the eyes of the whole State, saying "you may have such and such regulations securing to you the blessings of good government, but if the politicians of Saint Paul choose to make that city an exception for their own party ends, no matter at what expense to the tax payers, it is all right." This is a question in which the great principle of taxation is involved, and I say again, let all be secured alike, whether living in the city or country. I have never seen such a distinction made in any Constitution. We have a provision in this Constitution that all laws shall be uniform, and again that the State shall be governed by general laws, and I want to know why an exception should be made against

those who happen to reside in a city? It is true that the question is to be submitted to a proper vote, but I object to it for the reason that it is not by any means those who own the property which is to be taxed, who are ambitious in political measures. Sir, the property holders of the city do not want the city set off into a county by itself, and thus lose the taxation upon perhaps five or six millions of property in the rural district, and it is certainly not for the benefit of the county, either as regards economy or convenience to be created into a county, from which the city shall be excluded. I insist that no such sign board shall be set up in the Constitution for the benefit of ambitious politicians.

Do you say that because we have a large population we have no right to maintain a county organization as large as is prescribed for the other portions of the State? It is true that a large population gives us a large representation, but gentlemen have no right to suppose that it is to be used to the detriment of the rural districts.

Mr. BECKER. I did not design to trouble the Convention with any more remarks upon the question, but inasmuch as the gentleman who has just addressed the Convention and myself represent the same constituency, and as I cannot concur in the opinions he has expressed, I desire to submit a few remarks in reply.

Now sir, I have been connected with the city government of St. Paul, and have had some experience in connection with the management of our city affairs, and that experience has shown me, as I think it has shown a majority of the citizens of St. Paul, that a city government within a county organization comprising different limits, is a wheel within a wheel, it is a government within a government of opposite interests and conflicting elements. I might mention for instance, the manner in which the paupers are supported. The city of St. Paul, pays an annual tax for the support of the poor in the county of Ramsey, and yet not a single pauper in the city of St. Paul is supported at the expense of the county. We have applied over and over again to the County Commissioners, to contribute from the county funds towards the support of the poor in the city, but invariably without success, and the city not only supports its own poor exclusively from its own treasury, but also contributes largely for the support of the poor of the county.

The same is true in regard to criminals. The city of St. Paul is not only compelled to build its own Jail and support its criminals, but to contribute its proportion towards the County Jail, and the support of county criminals. I say that the whole regulations which connect the city of St. Paul with the county of Ramsey, are unjust to the city.

But the effect of the connection which now exists between our city and county organization, is also unjust in some respects to the rural portion of the county. The city having a large preponderance of population as a natural consequence, controls politically, the the county affairs. The politicians of the city usually take the lead in county matters, and I think I am justified in saying, that they usually monopolize a large majority of the more desirable county offices, very much against the will of the people in the country. The experience of every politicion in the country shows that they have no chance; the whole thing is regulated in the city. Now sir, I think it is unfair to the city, and I think it is unfair to the country. The wants of the city are entirely different from the wants of the country, and why gentlemen should wish to connect the government of the two together I cannot imagine; nor can I see any possible reason why, if the people of the city and the people of the country both desire a separation, it should not be granted to them. I do not look upon this amendment as involving special legislation at all. It merely says that the Legislature may, if a majority of the people ask it, grant a divorce. The people will never ask it unless their interests imperatively demand a separation, but when they ask it, I think it ought to be granted.

Mr. EMMETT. I think there is an objection to the proposition before the Convention to give the people, if they see fit, power to organize themselves into a county. But sir, I think in its present shape, while it may be for the benefit of the city of St. Paul, it does injustice to the country. There have been expended already some thirty or forty thousand dollars in county buildings for which the people of the county have been taxed, and when the separation takes place, the people of the country are required to erect new county buildings at their own expense. I do not think that is fair. I think if a separation is to be authorized, the people of the country should also be consulted.

Mr. BECKER. I take it for granted that the Legislature will prescribe the terms upon which a separation shall take place. They would not do the manifest injustice of depriving one portion of the buildings already erected without remuneration.

Mr. EMMETT. I am not sure that the Legislature would accede to any such conditions. At any rate, I think it would be but fair and right, if we authorize the separation by the Constitution, to provide also for the protection of the rights of the people of the country. Now, sir, I am rather disposed to favor the object of this Section; because I think the time may arrive when it will be important to the City of St. Paul that we should have a separate

organization. But as the Section stands, I shall be compelled to vote against it.

Mr. A. E. AMES. There is another feature of this Section which I think hardly does justice. In accomplishing the divorce for which the Section provides, it seems to me there should be a direct vote of the people out of the City as to whether they are willing to be separated from the City in their County organization. It strikes me that the people living adjacent to the City would rather come to the City to do their business, and that it would be injustice to require them by an order in respect to which they are not allowed to vote to erect new County buildings and to be at the expense of an entirely new County organization. If the Section is to be adopted, there should be some provision inserted requiring the assent of the people of the country before the separation can take place.

Mr. MEEKER. When the first Section of this Article was adopted in Convention yesterday limiting Counties to not less than four hundred square miles, I was in favor of that limitation. But it having been adopted, it becomes necessary to except certain localities. Circumstahces may arise rendering it necessary for a County to secede from a City, or for a City to secede from a County, but I think if we authorize any such separation, it should be done on some terms which will require that neither shall be taxed for the erection of entire new County buildings.

Mr. BECKER. The gentleman will allow me to make one suggestion. The Legislature will make whatever regulations are necessary to secure the separation on equal terms. The section does not make it obligatory upon the Legislature merely to grant permission for the City to secede, but they will make such regulations as may become necessary.

Mr. MEEKER. If you adopt the plan of divorce at all in the Constitution, you have got to provide for all the details in order to prevent injustice on one side or the other. You have got to say how the County debt shall be discharged and how the buildings and other County property shall be disposed of. That is my objection to the Section, and I am not sure that it would not have been better to have left the whole matter of County organization to the Legislature. But inasmuch as you have restricted the Legislature on this subject, it may become necessary to make exceptions in certain instances, and I hope they will be made so that no injustice will be done.

Mr. SHERBURNE. It seems to me the very point the gentleman desires to present is already provided for in the Article as it

now stands. We have already required that new Counties shall not be formed containing less than a certain number of square miles. I understand the proposition before us is simply to allow, if the whole County shall consent to it, the Legislature to adopt County lines for any City containing a certain population. I can see no injustice which can result from the adoption of such a course. I concur with my colleague from Ramsey that it is better as a general thing to have large Counties, but still I am equally certain that it will become necessary to adopt County lines for Cities with smaller limits than those we have adopted for Counties in the interior. The wants of the people in the country are very different from those in the City; their necessities are of a different character and their expenses are of a different character. You know, Mr. PRESIDENT, and every gentleman must know, that jealousies are constantly arising between the country and the City, and I undertake to say the time will come when both the City and the country will desire to dissolve the organization which connects them. Every gentleman who knows anything of the existing organization which connects the City and country portions of Ramsey County must know that a change is desirable. The form of the County is inconvenient, it is inconvenient in every respect, and therefore, I say leave it to the Legislature and the people to make such change as may be convenient to all. It will be the duty of the Legislature and entirely within their power, if any change is made, to make such regulations in respect to the payment of the County debt, and the disposition of the property of the County as may be necessary and proper. It is impossible to harmonize the interests of country and City, and I think it is desirable they should separate as soon as possible.

Mr. TENVOORDE. It looks to me fair and just, if a majority of the people of the City wish to separate, that they should be allowed to do so. If the people of the entire County wish it, I can see no reason for outsiders to complain.

Mr. SHEPLEY. It seems to me that this whole matter of limiting the Legislature is wrong. I can see no justice in it. Because the Legislature has in some instances done wrong is no reason for putting into the Constitution a provision which will hamper the people in all future time. It seems to me that whenever any portion of the people of a County are willing to take upon themselves the burdens of a County organization, they ought to have that privilege. It may be very well to have some provision that new Counties sparsely populated shall not contain less than a certain number of square miles, but where the country is densely settled,

it seems to me utterly useless and unjust to trammel the people by requiring County organizations to be confined to certain limits without reference to convenience or economy.

Mr. BROWN. I am rather in favor of this proposition. There is only one difficulty existing in my mind. It seems to me that it conflicts with a previous clause in the Constitution, prohibiting the Legislature from passing any special law.

Mr. SETZER. I move that the whole Article be referred back to the Committee who reported it, with instructions to draw up a special law covering the whole subject. In the first place, we have an act of special legislation requiring counties to conform to a certain number of acres; then we have another act of legislation requiring counties to conform to a certain number of inhabitants;—and now we are asked to insert still more special legislation for the benefit of cities containing a certain number of inhabitants. I think it would be much better to insert a law at once in the Constitution giving the specific details under which counties shall be formed. I make the motion, therefore, to recommit with instructions.

The motion was not agreed to.

On motion of Mr. GORMAN, the yeas and nays were ordered on the adoption of the Section.

The question was taken and resulted Yeas 25, Nays 16, as follows:

YEAS—Messrs. Butler, Becker, Burns, Burwell, Bailly, Brown, Curtis, Chase, Gilman, Holcombe, Kingsbury, Jerome, Kennedy, Keegan, McGrorty, Norris, Prince, Setzer, Sherburne, Stacey, Shepley, Sturgis, Tuttle, Warner, and Mr. President—25.

NAYS—Messrs. A. E. Ames, Armstrong, Barrett, Baasen, Day, Emmett, Faber, Flandrau, Gorman, Lashelle, Meeker, McMahan, Sanderson, Streeter, Tenvoorde, and Wait—16.

So the additional section was adopted.

The amendments to Section three reported by the Committee of the Whole were then concurred in.

Mr. BAASEN moved to amend Section four by striking out the following clause:

But the credit of neither shall ever be given or loaned in aid of any individual, association or corporation.

Mr. EMMETT demanded the yeas and nays, which were ordered, and the question being taken resulted Yeas 23, Nays 19, as follows:

YEAS—Messrs. Armstrong, Becker, Baker, Barrett, Burns, Burwell, Bailly, Brown, Baasen, Day, Faber, Flandrau, Gilman, Keegan, Meeker, McMahan, Stacey, Sturgis, Streeter, Tuttle, Wait, Warner, and Mr. President—23.

NAYS—Messrs. A. E. Ames, Butler, Curtis, Chase, Emmett, Gorman, Holcombe, Kingsbury, Kennedy, Leonard, Lashelle, McGrorty, Norris, Prince, Setzer, Sanderson, Sherburne, Shepley, and Tenvoorde—19.

So the amendment was adopted.

The Article was then ordered to be engrossed.

SCHOOL FUNDS, EDUCATION AND SCIENCE.

Mr. SETZER, in pursuance of previous notice, moved to reconsider the vote by which the Convention on yesterday adopted an amendment to the second section of the Article on School Funds, by striking out the words "by each township respectively."

The motion was not agreed to.

The Article on School Funds, Education and Science was then adopted and ordered to be engrossed.

JUDICIARY.

On motion of Mr. A. E. AMES, the Convention resolved itself into Committee of the Whole on the Report of the Committee on the Judicial Department, (Mr. A. E. AMES in the Chair.)

The following is the Report of the Committee:—

JUDICIAL.

SECTION 1. The Judicial power of the State shall be vested in a Supreme, District Courts, Courts of Probate, Justices of the Peace, and such other Courts, inferior to the Supreme Court, as the Legislature may, from time to time, establish by a two-thirds vote.

SEC. 2. The Supreme Court shall consist of one Chief Justice and two Associate Justices, but the number of Associate Justices may be increased to a number not exceeding four, by the Legislature, by a two-thirds vote, when it shall be deemed necessary.

It shall have original jurisdiction in such remedial cases as may be prescribed by law, and appellate jurisdiction in all cases, both in law and equity, but there shall be no trial by Jury in said Court. It shall hold one or more terms in each year, as the Legislature may direct, at the seat of Government, and the Legislature may provide, by a two-thirds vote, that one term in each year shall be held in each Judicial District.

It shall be the duty of such Court to appoint its own Clerk or Clerks, and a Reporter of its decisions.

SEC. 3. The Governor shall nominate, and by and with the advice and consent of the Senate, shall appoint the Supreme Judges, whose term of office shall be seven years.

SEC. 4. The State shall be divided by the Legislature into five Judicial Districts, which shall be composed of contiguous territory, be bounded by county lines, and contain a population as nearly equal as may be practicable. In each judicial District, one Judge shall be elected by the electors thereof, who shall constitute said Court, and whose term of office shall be seven years.

Every District Judge shall, at the time of his election, be a resident of the district for which he shall be elected, and shall reside therein during his continuance in office.

SEC. 5. The District Courts shall have original jurisdiction in all civil cases,

both in law and equity, where the amount in controversy exceeds one hundred dollars, and in all criminal cases where the punishment shall exceed three months' imprisonment, or a fine of more than one hundred dollars, and shall have appellate jurisdiction as may be prescribed by law. The Legislature may provide by law that the Judge of one District may discharge the duties of the Judge of any other District nor his own, when convenience or the public interests may require it.

SEC. 6. The Judges of the Supreme and District Courts shall be men learned in the law, and shall receive such compensation at stated times as may be prescribed by the Legislature, which compensation shall not be diminished during their continuance in office, but they shall receive no other fee or reward for their services.

SEC. 7. There shall be established in such organized County in the State a Probate Court, which shall be a Court of Record, and open at all times. It shall be held by one Judge, who shall be elected by the voters of the County, for the term of four years. He shall be a resident of such County at the time of his election, and reside therein during his continuance in office, and his compensation shall be provided by law. He may appoint his own Clerk where none has been elected, but the Legislature may authorize the election, by the electors of any County, of one Clerk or Register of Probate for such County, whose powers, duties and compensation, shall be prescribed by law, and whose term of office shall be four years. A Probate Court shall have jurisdiction over the estates of deceased persons and persons under guardianship, but no other jurisdiction, except as prescribed by this Constitution.

SEC. 8. The Legislature shall provide for the election of a sufficient number of Justices of the Peace in each County, whose term of office shall be three years, and whose duties and compensation shall be prescribed by law; provided that no Justice of the Peace shall have jurisdiction of any civil cause where the amount in controversy shall exceed one hundred dollars, nor in a criminal cause where the punishment shall exceed three months' imprisonment, or a fine of one hundred dollars, nor in any case involving the title to real estate.

SEC. 9. All Judges other than those provided for in this Constitution shall be elected by the electors of the Judicial District, county or city, for which they shall be created, nor for a longer term than seven years.

SEC. 10. In case the office of any Judge shall become vacant before the expiration of the regular term for which he was elected or appointed, the vacancy shall be filled by appointment by the Governor until a successor is elected or appointed and qualified.

SEC. 11. The Justices of the Supreme Court and the District Courts shall hold no office under the United States, nor any other office under this State. And all votes for either of them for any elective office, except a Judicial office, given by the Legislature or the people, during their continuance in office, shall be void.

SEC. 12. The Legislature may at any time change the number of Judicial Districts or their boundaries, when it shall be deemed expedient, but no such change shall vacate the office of any Judge, unless the number of Districts shall be diminished,

SEC. 13. There shall be elected in each County where a District Court shall be held, one Clerk of said Court, whose qualifications, duties and compensation shall be prescribed by law, and whose term of office shall be four years.

SEC. 14. Legal proceedings and proceedings in the Courts of this State shall be under the direction of the Legislature, but they shall be in substance accord

ing to the course of the common law. The style of all process shall be "The State of Minnesota," and all indictments shall conclude "against the peace and dignity of the State of Minnesota."

SEC. 15. There shall be an Attorney General elected by the electors of the State, whose term of office shall be three years, and whose compensation and duties shall be fixed by law.

SEC. 16. The Legislature may provide for the appointment or election of one person in each organized County in this State, with Judicial power and jurisdiction not exceeding the power and jurisdiction of a Judge of the District Court at Chambers, or the Legislature may, instead of such appointment or election, confer such power and jurisdiction upon the several Judges of Probate in the State.

PERSONAL EXPLANATION.

Mr. SIBLEY. I rise to a personal explanation. I hope the Convention will indulge me for five or ten minutes in a statement personal to myself, which I cannot well make anywhere else.

It is well known that gentlemen in the other side of the Capitol have, within the last few days, diversified their employments there, by calling in question the veracity of members of this Convention; and, having been personally referred to, I feel unwilling to have those statements go before the country uncontradicted. The first point made is by a gentleman whom I have not the honor to know, Mr. M'CLURE, who sates that either the gentleman from Ramsey, (Mr. GORMAN,) or myself, have been guilty of falsehood in our statements relative to the primary organization of the Convention. He averred that one or the other of us had misstated the steps taken in the caucus of the Democratic members, by which it was determined what course should be pursued.

I mentioned it as our intention, in consequence of the absence of some of our members, to procure an adjournment. The gentleman on my left, (Mr. GORMAN,) stated the same thing in his speech. In case of being out-voted on the question of adjournment in consequence of the absence of many Democratic members, we proposed to call the roll, and when a person whose seat was contested should be called, to stop there, until the question of his right to a seat should be settled by the members sworn. There is no such contradiction as is attempted to be shown, as a reference to the printed remarks of both the gentlemen and myself will sufficiently demonstrate. Our intention was to obtain an adjournment if possible, and if we could not get it to proceed in the manner stated by the gentleman from Ramsey.

The next thing which I wish to notice occurs in a speech of a gentleman for whom, personally, I have a high respect, and with whom I have maintained agreeable sociable relations, Mr. NORTH

He has made a declaration of my views heretofore, and declared them entirely irreconcilable with the position which I now hold. Mr. CHAIRMAN, I would not disregard the sanctity of private conversations by parading them before the public, but I am compelled to do so, partially, in this instance, to protect myself from misapprehension and misrepresentation. He stated that I had changed my views on the subject of the right of admission of the Delegates from Pembina, because I had observed to him that I was not in favor of their admission to seats in the Convention. When and where was it? It happened that a short time before the day fixed for meeting of the Convention, that gentleman and myself journeyed together from Northfield to Mendota. During that trip, the vexed questions which were expected to rise in the Convention were freely conversed. We did not then know the facts upon which the Pembina Delegation based their claims to seats in the Convention. I gave it as my impression, that if the members elected were voted for *exclusively* on the west side of the line designated in the Enabling Act as the State boundary, they would not be entitlnd to seats, and upon that hypothesis I probably should not vote in favor of their admission. I now say in vindication of my own consistency which has been assailed by the gentleman referred to, that those members came under very different circumstances from those thus pre-supposed. Before I acted in the matter I sought an interview with an old and valued friend (NORMAN W. KITTSON, Esq.,) who had just returned from Pembina. A more honorable and veracious gentleman than Mr. KITTSON, cannot, in my opinion, be found upon earth. He informed me that all the votes polled for the Pembina Delegates had been cast upon the east side of the Red River, and that no election precincts had been opened on the west side. That fact settled the question beyond dispute in favor of their admission. They had as much right to seats in the Constitutional Convention as any other member of it. I think Mr. NORTH should have borne this in his mind when he called in question my consistency. If disposed to detail his conversation with me, I might be tempted to place him in a far more awkward predicament than he has endeavored to put me, by referring to his categorical denial of the right of his Republican coadjutors from St. Anthony to seats, as he then understood it. But my object being merely to right myself, and not to assail others, I forbear from further discussion on that point.

While up I will also refer to statements which have been made in the other end of the Capitol, as to the action of our caucus. I am assured by more than one gentleman who was present, that there was no caucus on Sunday night, unless a number of gentle-

men assembled in compliance with the invitation from a Committee of the Republicans themselves, should be called a caucus. Whatever meeting was there held, was called together by the Republicans, as I supposed, speaking from information, and not from personal knowledge. I state that there never was a sufficient number of members assembled to constitute a caucus authorized to express the views of the party, until Monday morning. It was not until nine o'clock on Monday morning, that we undertook to prescribe what course we should pursue. Under ordinary circumstances the points made in the other end of the Capitol would not require any notice here; but considering the position we occupy towards each other, I am impelled, out of respect to the opinions of my fellow-citizens, and out of regard to truth, to make the statements I have here, and I think that in these statements, I shall be borne out by the recollection of the gentlemen present.

JUDICIARY AGAIN.

Mr. EMMETT moved to amend by striking out section three and substituting the following:

SEC. 3. The Judges of the Supreme Court shall be elected by the electors of the State at large, and their term of office shall be seven years and until their successors are elected and qualified.

Mr. SHERBURNE. I have but one simple remark to make upon this matter. I do not intend to give reasons in favor of the language as it stands, providing for the appointment of Judges or in favor of electing them. I will only state that the article reported by the Committee was a matter of compromise among the different members. It provides that the Justices of the Supreme Court shall be nominated by the Governor and that the inferior Judges shall be elected by the people. I have my own individual opinion on the subject, but I do not consider it a matter of such vital importance as to justify me in taking up the time of the Convention by giving reasons for or against either proposition. My own opinion is decidedly in favor of the appointment of the Judges by the Governor, with the advice and consent of the Senate. But, as I have said, the Article as it stands, was agreed upon by the Committee as a compromise proposition, and I believe it will be better to allow it to remain as it is. I have simply made these remarks that the Convention may know how the matter stands, and leave it in their hands to adopt whichever form they please.

Mr. EMMETT. I do not propose to discuss the respective merits of an appointed or an elected Judiciary. That there are benefits belonging to each mode, is well known to the members of this

Convention. They have undoubtedly well digested the whole matter and made up their minds on the subject. The Chairman of the Committee has very properly remarked, that the report before us is a sort of compromise, or, in other words, that it does not embody the peculiar notions of any member of the Committee, for a portion of the Committee were in favor of appointing altogether, and the others in favor of electing altogether. It was thought best, therefore, that a compromise of this sort should be effected. For myself, I did not sign the report of the Committee, and another member in signing it, excepted the section under consideration and one or two others. It was our intention to have submitted a minority report, but owing to certain circumstances, we have not been able to do so. I think that the great principle of an elective Judiciary will meet the hearty concurrence of the people of this State, and that it will be entirely unsafe to go before any people in this enlightened age with a Constitution which denies to them the right to elect all the officers by whom they are to be governed. If there be any propriety in the position assumed, that Judges of the Supreme Court should be appointed, and not be elected by the people, or if there is any truth in the position that the people cannot be safely trusted with the election of any portion of their Judges, then I say it applies with a great deal more force to the Judges who are made elective by this Article than to the Supreme Judges. If we can safely elect any of the Judges in this State, it is certainly the Judges of the Supreme Court who would be elected by the people of the State at large. If any Judges are to be appointed, it certainly should be those in districts, because they are brought right down to the neighborhood in which they are to be elected, and are more likely to be affected by neighborhood squabbles than those elected by the State at large.

Mr. BECKER. I ask the gentleman if he will support an amendment providing for the appointment of district Judges.

Mr. EMMETT. I would not. I go for electing the Judges of the whole State for both the District and Supreme Courts. What I say is, that if there be any force in the arguments favoring the appointment of any Judges under our State organization, it applies more strongly to the District Judges, Probate Judges and Justices of the Peace, if you please, than to the Judges of the Supreme Court. But, Sir, as I said before, I do not propose discussing this question. I have merely stated the reasons why I did not sign the report and why I shall vote against this Section.

Mr. FLANDRAU. Being a member of the Committee on the Judiciary, I will state here, that I did not sign this report, or rather

that I did sign it with the exception of this provision and one other. Now, sir, it is no experiment we are embarking in when we provide for the election of Judges. It has become the settled rule throughout the States which have revised their Constitutions within any recent date, to provide for an elective Judiciary. The change has always been from an appointed Judiciary to an elective one, and I have never known an instance where the step has been reversed. That step being taken, it has always remained the system in force, and I ask gentlemen for reasons why it should not obtain in relation to the Judiciary as well as any other branch of government. I have heard much argument upon this subject, but I have never heard one in favor of an appointed Judiciary which does not strike at the whole system of the people governing themselves, as much as it does at the propriety of an elective Judiciary. It is wrong, absolutely wrong. It strikes at the one great idea of the Democratic party, that of the people being able to govern themselves. I should like to hear what arguments can be advanced by gentlemen upon this floor in favor of the appointing power, It has been my experience that it has been the complaint of the Territory, not of course of the Judges themselves, that we have to submit to have our Judges sent to us and have no voice in the selection. I know that to have been the complaint of the people of this Territory, and that they have looked forward with hope to the time when they could elect their own men to do their own business.

Mr. SETZER. I was not a member of the Committee, but am certainly in favor of an appointed Judiciary throughout. The gentleman from St. Paul, (Mr. EMMETT,) states that it would be better to have District Judges appointod than Supreme Judges, because they are in more immediate connection with the people, and would be more affected by neighborhood squabbles. Sir, it is not for that reason I go for an appointed Judiciary.

Mr. EMMETT. I am certainly in favor of electing the Judges throughout. My position was that if there is any force in the argument for appointing any part of the Judges, it applies more strongly to the District than Supreme Judges.

Mr. SETZER. The great object of an appointed Judiciary, is to secure stability upon the part of the government, by having a power within the State conservative enough to restrain the waves of popular excitement, when they sweep over us as they have done in different States for years past. This is the great object of appointing the Judiciary, not because even an elective Judiciary is going to be swayed by popular prejudices in deciding between man and man. I do not believe that any man who would be a

District Judge, when a case was brought before him, would be diverted from his judgment because one party was a Democrat and the other a Republican. But I do say that Supreme Judges should be appointed in order to place them above popular excitement and in order that they may be true to the Constitution of the United States. The gentleman from Nicollet, (Mr. FLANDRAU,) tells us that whenever new Constitutions have been adopted, the Judges have been made elective. He says it is no longer an experiment. Why sir, the whole system is not more than eight years old; the whole thing from beginning to end is an innovation upon the principles established by our forefathers, principles which are as old as the Constitution of the United States, and I do not think the wisdom of this Convention is going to improve upon that instrument to any extent. It is true the principle of an elective Judiciary has in some States taken the place of that formerly adopted, and we find now that State authorities and the authorities of the United States are in conflict. We see it in Wisconsin, in Iowa, and in all those States where popular excitement in reference to negro-worship and disunion has had its effect upon an elective Judiciary. Even in the State of New York, where the excitement has overturned their Constitution in regard to the power of their Legislature for appointing city officers, we find that of the three Judges in the city each is of a different opinion, and that opinion guided by his political prejudices. The gentleman claims, I suppose, that the principle of an elective Judiciary is Democratic, and that it involves the power of the people to govern themselves. I contend that the only true Democratic principle, and the only principle which the Democratic party will acknowledge, is that shown by the framers of the Constitution of the United States. That ours is a government of checks and balances, is a fact which should be always kept in sight. While the people elect their Representatives, who are the servants of the people and who are swayed by every wave of feeling, our Senators are elected by the States, and represent State Sovereignty? But sir, the Judges, in order to give more stability to the government, in order to act as a check upon the varying legislation of the House of Representatives and Senate, are appointed by the President and appointed for life. The Judges represent no constituency and are elected by no constituency. They represent nothing except the abstract ideas of equity and justice, as applied to the affairs of the Commonwealth, and what is more proper than that the Commonwealth should appoint them. For these reasons, sir, I contend that our Judges should be appointed,

as are those of the United States, by the Executive with the consent of the Senate.

Mr. SHERBURNE. We are called upon by the gentleman from Nicollet for reasons in favor of the proposition which appears here in the report, and for reasons why we oppose the amendment which has been offered by my colleague from St. Paul. I have already said that it was not my purpose to give reasons in favor of either one or the other proposition, but, sir, it seems strange to me that any gentleman in this Convention should have difficulty in finding reasons why an appointed Judiciary is preferable to one elected. Sir, is there nothing good but what is new? Have we come to this that not a single idea of government is worth our entertaining unless it is one which has been adopted here, in the Western States, within a few years? The old States of our Union, most of them, have lived under an appointed Judiciary, with what success I need not inform this Convention. It has given stability to their governments. The people have had confidence in it from year to year, for the past three-quarters of a century. They have not changed their system, and they have found their safety in it. I do not here say that an elective Judiciary may not be safe, but I do think that it is less safe, and that it is less permanent. I think that in the excitement of political elections, there may be and I know there has been danger growing out of it. Many bad selections have been made. It may be said that there have been bad appointments, but, sir, when you narrow down the responsibility to a single executive officer, and when that executive officer is checked by the Senate, there is something conservative about it; there is something on which the people may rely with safety. It is so narrowed down that each man feels the responsibility upon his own shoulders. But when the people vote in mass in political elections, although I have as high respect for the people as my colleague or any gentleman, and I am as Democratic as he is, I believe there is less safety in it. Since this matter has been under consideration, I have had occasion to consult and have consulted gentlemen about it, from time to time, belonging to all classes of society, and I have been most unfortunate in gathering public opinion if there is not a large majority in favor of the doctrine of an appointed Judiciary. Is the fact that certain States have changed their system and have adopted an elective Judiciary a reason why we should make our own elective? If we are satisfied it is best for us, then we should do it, but not because this or that State has done it. It seems to me we should rather look to those States which have had the largest experience, whose Judiciary stands the highest, where law has been the most permanent, and see what their suc-

cess has been. Mr. PRESIDENT, I should not have made these remarks, if I had not been most directly called upon by the gentleman from Nicollet.

Mr. BAKER. The point before the Convention is one which I shall not argue, for I am not capable of doing it justice, and if I were I do not suppose the mind of any gentleman could be changed on this subject. But, sir, I can see no reason, for my own part, for an appointed Judiciary. I have all confidence in the people. I do not believe there can be any power in government higher than that of the sovereigns. If I am not here at the time the question is taken on this amendment, I want it most decidedly understood, that I am for an elective Judiciary. I will not take up the time of the Convention by remarks on the subject, because every man's mind is made up.

Mr. CURTIS. I believe it is too late in the day to argue seriously the question whether the mass of the people are in favor of exercising the right of electing all the officers of Government. I believe the minds of the people are made up on the question—that they have given their verdict, and that that verdict is in favor of the election of all officers. I believe the time is not far distant when the President of the United States will be elected directly by the voice of the people. Now, Sir, in answer to the plea of gentlemen in support of an elective Judiciary, we have this simple argument presented, and this alone, if I understand it, that an appointed Judiciary gives stability and conservatism. The question is asked by the gentleman from Ramsey (Mr. SHERBURNE), whether it is a sufficient argument in favor of the adoption of an elective Judiciary, because the system is new. Sir, I return the question to the gentleman, and ask him whether it is a sufficient argument in favor of an appointed Judiciary, that it is old? Is it all that can be said in its favor, that it has grown hoary by age and usurpation—because it is all covered over from one end to the other by corruption and fraud? Sir, let us examine for one moment this principle of conservatism. Gentlemen say it gives more stability to the Government. What branch of Government, I ask, is it which is most susceptible to popular agitation? Is it the Judiciary? Is it the Executive? Sir, who encumbers our statute-books with legislation varying with every wave of popular feeling? It is the Legislature. Sir, the Courts of the country are not responsible for improvident laws. If there is any branch of the Government in which the spirit of conservatism is worth anything to give stability to your Government, it is your Legislature. Let us then have a State Legislature not immediately responsible to the people

—not varying with the whims and caprices of popular will. Sir, if your Judges do not act in accordance with the will of the people your Legislature will pass such laws as will require them to conform to the wishes of the people. If there is any gentleman here who can give any better reason for an appointed Judiciary than because the principle is hoary with age—because, as they say, it is conservative, or because it has some feature of stability which they pretend to give it,—then, I believe, the people may justly, as they do imperiously, demand that they shall exercise their own franchises and their own privileges. Gentlemen have alluded to the experience of the past. Well, Sir, in the State of New-York the principle of an elective Judiciary was adopted some eleven or twelve years ago, and I am justified in saying that they have never had a better Judiciary in that State than at this day. And I go further, and say that, so far from popular excitement and party prejudice controlling the election of Judges in that State, I have known many instances exactly to the contrary. I know that in one of the strongest Republican districts in the State, when the issue was between Republicanism and Know-Nothingism, Judge MARVINE, who was the Know-Nothing candidate, and nominated upon pure party grounds, because he had given universal satisfaction by his calm, dispassioned judgment, was elected, notwithstanding the district was Republican by a very large majority. Mr. CHAIRMAN, I do not believe there is any power where this important trust can be more safely reposed than in the hands of the people.

Mr. MEEKER. I do not rise, as every gentleman who has preceded me has remarked, to make a speech, but simply to reply in a very few words to the able and eloquent speech of the gentleman from Stillwater who has just taken his seat. I am surprised at the view of the facts and principles connected with this subject which he has announced to this conservative body. The gentleman misstates the question in the beginning. I have as much confidence in the people as he or any man has; I believe if the people of the State of Minnesota come forward on the day of election to vote for the election of Judges of the Supreme Court, or upon any other issue, they will act uninfluenced by any other considerations except the dictates of their own judgments;—but the gentleman knows, as every politician knows, that when the day of election comes, the people are compelled to vote for men—if they intend to elect them—who are the candidates of parties, and not of the people.

Mr. CURTIS. It is true these candidates are nominated by party

men; but, sir, whichever party nominates the best men will elect them.

Mr. MEEKER. I contend that the Judges who are elected, are elected by parties, and are the mere fuglemen of caucuses. The best trickster or the best manager of caucuses is just as likely to be the nominee of a party as the most learned man in the nation.

Mr. CURTIS. Then he will be defeated.

Mr. MEEKER. They will nominate the same class of men on both sides, and one must be elected. Sir, the greatest curse that could befal any people would be the establishment of a political court. The gentleman is too good a lawyer not to know that to be the case. I repeat, the greatest curse which could befal any country would be for justice to be administered by a political court, and our Judges, from the Supreme Court down to the lowest Court in our State, if they are to be elected, must necessarily be essentially political Judges; they cannot be anything else. They are not the people's Judges; they are party Judges. How was it a few years ago in Mississippi? A Chief Justice of the Supreme Court was to be elected; three candidates were before the people; the first, who was the incumbent, was one of the most able and intellectual men in the whole South; he had decided a certain class of bonds in that State to be Constitutional; the politicians in the State stirred up the tax-payers, and organized an anti-bond-paying party; they brought out an anti-bond-paying candidate, and he was elected Chief Justice of the State; and the opinion of the first Judge was reversed in less than six months thereafter. Sir, I am in favor of some stability in this country. I do not believe in the doctrine that whatever is new is an improvement. There are some things which are right for every government, and right will ever remain right as long as governments last. I do not pretend to say that the people are not competent to choose their own Judges; but I do say that the candidates set up and elected by the demagogues and the politicians of the country, are not the stable men we ought to have to adjudicate finally upon the important questions which will come before them for judicial decision. Sir, if the State of New York could be made responsible for all the mischief she has engendered, for the system of jurisprudence she has set up, and for the example she has furnished to other States, an awful retribution would await her. Step by step has the innovation travelled west, until it has swept away every stable principle in the jurisprudence of every State in this new country.

Now, sir, there is a party in this country, since the Supreme Court of the United States has passed upon a certain long-agitated

question, which is in favor of striking at that solid palladium of American freedom, the Supreme Court of the United States, and they are already agitating the question of incorporating a provision into the Constitution of the United States to make the Judges of that Court elective. That is to become one of the features of political agitation in this country in future, and if it is ever accomplished, it may be that we shall have abolitionists for Judges in the Supreme Court.

Now, Mr. CHAIRMAN, we are not legislating here. We are fixing the elemental principles of Government. Government implies something stable. It implies the establishment of principles upon which we may rely for the security of life, liberty and property. That security depends upon the adjudication and decision of your Courts. And, sir, what security have you for the permanency of any judicial decision if your Judges are made elective? Whichever party is in the ascendancy will change the system of jurisprudence to its own standard, and there will be no security, no stability in anything. Gentlemen have alluded to the systems established in several of the States which they have mentioned. I will allude to Kentucky, a State which needs only to be mentioned to secure the consideration of every member of this Convention—a State the orators and judges of which stand second to none in the Union. That State held a Convention to revise her organic law, and one of the changes which she incorporated into her new Constitution was that of an elective Judiciary. They were tired of an appointed Judiciary, and Judges who held their offices during good behavior—which tenure of office, by the way, I do not regard with favor, nor is it contained in this report. Well, sir, the people came forward and elected their Supreme Court Judges, their Circuit Judges and their County Judges; and who did they choose when the question was first presented? All the Supreme Court Judges, the previous incumbents in office, were elected, and all the Circuit Judges, save one, so that the appointing power in that case was endorsed by the people. It was a new system with the people then, and the question did not at once become a political one. The same Judges were re-elected for three or four successive terms, but now the election of these Judges has become just as much a matter of party consideration, of party caucusing and party management, as that of constables, coronors and representatives. Sir, the Judiciary of that State has fallen fifty per cent., and has become a matter of serious concern with conservative men of all parties. Such has been the downward tendency of things in every State in which the Supreme Court Judges have been made elective.

Why sir, there are men in every community who live on politics whose very existence depends on organizing and keeping parties together, in keeping them well-trained and disciplined, ready for use when they want them. As has been well stated by the Chairman of the Committee, (Mr. SHERBURNE), the report of the Committee was the result of conference. I do not believe the principle of an elective Judiciary will find favor in this body. I do not believe the members of this body are prepared to entrust their property, their lives and their liberties in the hands of Judges who are the mere tools of party. It is a question of vast importance to the people of this Territory. It is a question we ought not to act hastily upon. When a Supreme Court Judge or a Circuit Judge is to be appointed by the Chief Magistrate of the State, it is his business to ascertain that the person appointed is a man who will be an ornament to an independent Judiciary. The person selected by the Executive must then undergo the ordeal of the Senate. The Executive acts upon his responsibility in the execution of this important trust and it will be strange if a proper person is not selected. It is very likely the Governor will choose a man from his own party, but that is a matter of no consequence if he is not selected to accomplish party ends. He would not be likely to select a mere political trickster. I hope the report as it came from the Committee, will be adopted. I think it will be the means of creating in this young State an example which many of the old States would do well to follow. Many of the States which have already adopted the principle of an elective Judiciary would be glad to return to the old system, but neither party dare to take the first step backward. Both parties would be glad to return to the old conservative position, but neither dare take the lead. We are not in that predicament. As we are about to launch the ship of State, we can set an example which shall be a warning to all demagogues. I ask my distinguished friend from Nicollet whether the good people of this Territory would have stood any certain chance of having his learning and abilities on the bench, had the federal Judges of this Territory been chosen by the people? I think he, at least, ought to go in for the appointing power.

Mr. FLANDRAU. Does the gentleman want to know whether I should have had popularity enough to have been elected in my own District?

Mr. EMMETT. I am satisfied the minds of the members are made up, but nevertheless I feel it to be my duty to answer, as far as I am able, some of the objections which have been urged against the amendment which I have proposed. I have listened in vain

for any argument, any reason in favor of appointing Judges. We have been told that the only argument in favor of elective judges is because the system has been tried in other States. I reply that gentlemen have not given us a single reason why Judges should be appointed, except the fact that the system is an old one. Now sir, the very reason which requires Judges to be independent in England, cannot be applied under our system of government. We hear a great deal of talk about an independent Judiciary. The phrase is in everybody's mouth. What does it mean? Independent of whom? Independent of what? Independent of the people? Sir, I say to the gentleman who was last up that out of his own mouth, I propose to condemn him. I understand from his argument here that in the case of certain bonds in one of the Southern States, it had become a political question as to whether those bonds were Constitutional or not; that one Judge YERGER, who, he says, was a very learned man, decided in favor of the Constitutionality of these bonds, but that when the people came to judge of the matter, they were so dissatisfied with the decision, or rather so satisfied that the decision was wrong, that they elected the opposition candidate upon that very ground. Now, sir, the law for issuing those bonds, I suppose beyond all contradiction, was unconstitutional, and if this Judge YERGER, learned as he may have been, had been retained upon the bench, whether that decision was right or wrong, the people would never have had any remedy. I say then that in order to correct the errors of Judges—and it may be important to correct them,—the office should be made elective. The community is capable of judging in these matters, and if a judicial decision is correct, the judicial officer will be sustained. I ask the gentleman whether he believes that the person who is elected as Executive, is any better qualified to select than if he had remained in the private walks of life? I think the gentleman must suppose that a person occupying the position of Governor, must have information which other persons cannot have on which to make his appointment, or the gentleman would not occupy the position he has assumed; for if the Governor is no more capable of judging upon the matter than any other man, there is no reason why the people could not select Judges as well as he. Sir, if the people are incapable of selecting their Judges, they are also incapable of selecting the man who is to appoint the Judges. I think the facts will show that the people are much better qualified to select your Judges than is the Governor. The Governor always selects men belonging to his own political party, while the people often select them regardless of parties. The

gentleman says I have a very convenient way of collecting statistics from the State of Ohio. May I ask what State the gentleman is from.

Mr. MEEKER. Kentucky.

Mr. EMMETT. Well, sir, it strikes me I have heard the State of Kentucky mentioned by the gentleman at least once or twice since the Convention has been in session.

Mr. SHERBURNE. The gentleman says that Judges appointed by the Governor are always selected by the party to which he belongs. Now, sir, I can point him to a long list of names of Judges who have been appointed without regard to party bias.

Mr. EMMETT. If there were no better reason for appointing Judges than that given by the gentleman from Hennepin (Mr. MEEKER) that in Kentucky they elected under the new system the Judges who had been in office before, the argument would have no force. If the gentleman will permit me, I will again refer to Ohio. In my own district, and I believe it was true in nearly every district of the State, although there was a large preponderance of voters belonging to one party, the candidate of the opposite party for Judgeship was elected by a majority of from twelve to fifteen hundred votes, simply from the fact that an inferior man was nominated by the majority party.

Mr. FLANDRAU. In the opening of this debate I called on gentlemen to give reasons in favor of an appointed Judiciary. Some gentlemen have got up here and very triumphantly presented reasons. Now, sir, if I allow this debate to close, having invited those remarks, without saying anything in reply, the inference might be drawn that the reasons were conclusive to my mind and that I had nothing to respond. The gentleman from Washington (Mr. SETZER) says that all the Western States which have entered on the experiment of an elective Judiciary have got sick of it, and he instances Wisconsin, Iowa, Missouri and other States.

Mr. SETZER. The gentleman misunderstood me. I said they were in conflict with the United States authorities.

Mr. FLANDRAU. I understood the gentleman to say that those States got tired of the system.

Mr. SETZER. Well, I believe they have.

Mr. FLANDRAU. I have understood differently, but I think that statements made at random in debate as to the views of a particular State upon any particular subject are very apt to be wrong, and ought to be received with a great deal of caution. The gentleman says he is satisfied that the people of Iowa, among

others, are dissatisfied with this system. Now, sir, a revision of the Constitution of that State has recently taken place, and I hold in my hand the new Constitution formed, which contains the same provision; so that instead of the gentleman's statement being correct, as far as Iowa is concerned, they are so well satisfied with the working of an elective Judiciary that they have again provided for it in the new Constitution.

The gentleman from Ramsey (Mr. SHERBURNE) thinks that high judicial experience and learning in the Judges will not be obtained if their election is made a political question. He thinks that a sharp political contest may reflect upon the Judge himself and make him a partizan to such an extent as to influence his action upon the bench. Now, sir, were these reasons true and were they confined entirely to the election of Judges, then I should say that it would be a serious objection. But let us look at the other side of the picture, compare them, and let us see which is open to the greatest objection in respect to the partizan character of our Judiciary, the elective or the appointing system. This appointment is to come from whom? From the Governor to be ratified by the Senate. Who is the Governor? How did he get to be Governor? He is a politician, perhaps one of the oldest politicians in the State. He is a man who has been elevated there by his party. He adheres to his party position. All his political aspirations are connected with the supremacy of that party to which he belongs. If there ever is a man who is subjected to party influences and who must necessarily be a partizan in his action in everything connected with party appointments, it is the Executive of the State. If the Executive is elected biennally or every four years, it makes no difference. Well, sir, how does this appointment come about? What will be the process? In the first place, it is to be decided on by one man. Candidates are recommended by the party to which the Governor belongs, by men who have acted with the Governor and who have placed him under obligations to them by political assistance—men who by gratifying their wishes in the appointment of their candidate will add strength to their party and make it a unit, as the saying is. The recommendation will come in that way and it will bear upon its face a weight which I tell you there are not many Governors or politicians of sufficient moral stamina to resist. They may select as good a man as the people will, in a nominating Convention, but the whole machinery will be strictly and purely of a partizan character. There can be no doubt about it. Well, sir, such being the case, as every man knows it must be, which system is surrounded with the greatest safeguards? I

do not believe that the people as a mass are politicians or partizans. I believe that when you go through the rural districts of any State or Territory you will find a large proportion of men who act conscientiously in the selection of officers, men who are influenced alone by a desire of securing the best men for the positions which they are to occupy. I believe that to be the case. I believe there is an element in the people of that conservative, conscientious character which will not permit an improper man to be inflicted upon them by pure party action. I believe that the safeguards are greater in an election than through the machinery of the appointing power.

The gentleman from Ramsey has given us instances in which he says the elective feature has worked badly. I trust gentlemen will not suffer their minds to be influenced by particular instances. I do not believe there is anything in them. You can select particular instances on any subject *pro* or *con*. The gentleman gives us a case in Mississippi, and that is his reason. Now, sir, I will give an anti-rent case which occurred in New-York. The anti-renters had formed themselves into a mighty power. They elected an anti-rent Judge, and the very first time the question came before him, on an indictment he decided, as an honest, conscientious, upright Judge, entirely regardless of party obligations and party bias, in opposition to the anti-rent doctrine, notwithstanding the fact that he was elected purely upon that issue. Now, sir, I hold that the instance I have given is as good as that given by the gentleman over the way, (Mr. MEEKER.)

Mr. MEEKER. I ask the gentleman if the anti-rent party ever attained the ascendancy in the State of New-York?

Mr. FLANDRAU. In that particular District they were in the ascendancy, and they elected their anti-rent nominee. They never held the power of the State, but they had an influence which was felt in the Legislature, and they held the supremacy in various parts of the State, so that they elected Delegates to the Constitutional Convention in sufficient numbers to impress their doctrines on that body, which met in 1846, and to impress their peculiar doctrines on the Legislature in regard to agricultural laws.

Mr. SETZER. The gentleman from Washington, (Mr. CURTIS,) in defending the amendment, has said to us that in a certain District in New-York, largely Republican, the Know-Nothings elected their candidate for Judge. Why, Sir, did anybody ever know such a complete unity of party as that of the Republicans and Know-Nothings? In every election which has been held, the Republicans and Know-Nothings have been a unit.

Mr. CURTIS. In the instance to which I refer they were bitterly hostile to one another. They made different nominations, and the whole District was divided up between the Republicans and Know-Nothings.

Mr. SETZER. Well, sir, the gentlemen from Nicollet refers to another case in New-York, in which he says a candidate for Judge was elected upon certain pledges, with which he refused to comply when he came into office. Now, sir, I say he was false, in the first instance, in making such promises, as he was wanting in integrity in not carrying them out. The gentleman also refers to the new Constitution of Iowa, where they have again adopted the system of an elective franchise. Now, sir, it is in just such States as Iowa, where I think it is necessary that the appointing power should prevail. The Constitution of that State is in open conflict with the Constitution of the United States. It emphatically declares that the Fugitive Slave Law, which has been decided to be Constitutional, shall be inoperative in the State of Iowa. I hope gentlemen will not quote that Constitution as a precedent which we are to follow.

Mr. WAIT. I am a member of the Committee on the Judiciary, and as such, was in favor of the appointment of Judges. A portion of the Committee were in favor of making the entire Judiciary elective, and it was thought best to adopt the Article which we have reported as a compromise of the different views entertained by the Committee. Sir, the gentlemen who have advocated an elective Judiciary upon this floor have furnished us with good arguments why the Judiciary should be appointed. The Judiciary Department was originally designed to be, and constitutes an entirely distinct Department of Government. It is totally distinct from all other Departments. And while I would make the Legislative Department dependent upon the people ; while I would have it conform to their peculiar views and opinions, for some reasons I would carry the Judiciary as far from the people as possible. We want one conservative power in this State ; one which will not be swayed by the prejudices and passions of the people ; a Court which shall decide questions brought before them, not upon the mere passions and prejudices of the Judge, but which shall decide according to the law and justice of the case. It seems to me that an elective Judiciary is not consistent with reason, nor with the institutions of our country. I have seen the workings of an elective Judiciary in the States of New York and Wisconsin, and I know that in these two States it has been a matter of complaint with the people. They have wished to go back to their old system

of having their Judiciary appointed. The system of appointing a Judiciary is one consistent with the Constitution of the United States. Why is it that the Constitution of the United States places the Senate in contradistinction to the House of Representatives, one branch taken directly from the people, representing their particular views and opinions, whether right or wrong; the other representing the sovereignty of the States, and supposed to be further removed from the popular prejudice? It seems to me there is some reason why there should be two distinct branches in our Legislature, one emanating directly from the people, and the other indirectly. As I said before, I want the Legislative branch of the Government to emanate directly from the people, and I would have the Judiciary, which is to administer justice in our Courts of law, as far removed from the passions, feelings and influence of the people as possible. They create no laws; they create nothing which belongs to the Government: they simply interpret the laws after they are made. The people are left free to govern themselves, and they do govern themselves through their Legislature. But when they have made their laws, the Judiciary are to give interpretation and stability to those laws.

Now, sir, gentlemen have argued here in favor of an elective Judiciary, because it is placing the matter more directly in the hands of the people. I assert that it does not place it more directly in the hands of the people. The people are still left free to enact their own laws. They are just as free as they would be if they had power to elect their own Judiciary. The Judiciary passes upon those laws after they are created. It is necessary that there should be something stable in the decisions of the courts under our laws, and that we should have Judges unswayed by any passion, prejudice or caprice, which exists more or less in every community.

Mr. CHAIRMAN, we have only to look to the decisions of the different courts in the States of this Union, under the old regime, and then at the decisions which have been given by the elective Judiciary in order to determine which system of courts is most reliable in this country. I think that no lawyer who will read the decisions of the Supreme Court of the State of New York, twenty years ago, and the decisions of the courts of that State as they are now constituted, would fail to see that the Judiciary of that State has depreciated. There is certainly less learning and ability upon the bench there now, than there was twenty or twenty-five years ago. The great lights of the State have been taken away, and instead of the great learning and integrity which characterized the Judges then,

they have now a mere set of party politicians, whose only ambition is to get into office.

Mr. SIBLEY. I do not propose to discuss this question. It has been ably discussed on both sides. All I do wish to say is, that I am in favor of an elective Judicary. I think the adoption of the principle presented by the Committee would be fatal to the Constitution. I am now speaking in a political point of view. I believe the Republicans have incorporated into their Constitution the elective principle, and if we undertake to go before the people with what gentlemen please to term the conservative feature of the Judiciary, we shall not be sustained by them.

The amendment was agreed to.

On motion of Mr. SETZER, the Committee rose, reported progress, and asked leave to sit again.

Leave was granted.

On motion of Mr. A. E. AMES, the Convention adjourned until half-past two o'clock, P. M.

AFTERNOON SESSION.

The Convention met at half past two o'clock.

JUDICIARY.

On motion of Mr. KINGSBURY, the Convention resolved itself into Committee of the Whole, and resumed the consideration of the report of the Committee on the Judicial Department, (Mr. A. E. AMES in the Chair.)

Mr. MEEKER. I move to amend Section 3, by striking out the word "seven," and inserting "ten," and by adding the words "but the said Judges shall not be re-eligible to the same office."

The substitute as adopted by the Committee renders the Judges of the Supreme Court elective, and when elected to hold their offices for a term of seven years, and until their successors are qualified. Now, by my amendment, I propose to increase the term and then to render them ineligible to the same office ever afterwards. I wish to provide so that they shall never be influenced by any motives concerning their re-election by the people.

Mr. BECKER. I think that amendment ought not to be adopted. There are men now upon the Supreme Bench of this Territory, who ten years from now will be in the prime of life. There is no reason why the State should be deprived of their services after that time by declaring them ineligible to office. If I was as old as the gentleman from Hennepin I might have no objection to the gentleman's amendment.

Mr. MEEKER. I am willing to make an exception in favor of my friend from St. Paul, and allow him to be re-elected. I hope the amendment will be adopted. I look upon it as very salutary in its effect, calculated to prevent the prostitution of the sacred office of Judge for purposes of re-election.

Mr. WAIT moved to amend the amendment by striking out the latter clause, relating to ineligibility.

Mr. BROWN. I hope that amendment will prevail. I do not think, after a person has spent six, eight, or ten years in learning to be a tailor, the law ought to forbid him to act in that capacity afterwards. Well, sir, it certainly requires as long an experience to make a man a good judge as to become a shoemaker or tailor. Now, sir, if a man with political aspirations is elected Judge, knowing that he can serve in that capacity for but a single term of office, he will be very likely to turn his attention to securing some other office.

Mr. MEEKER. I would inquire of the gentleman whether he does not consider rotation in office one of the essential principles of the Democratic party?

Mr. FLANDRAU. I think Judges should be made eligible to a second term of office. It was my intention to move to reduce the term to six years. I think ten years or seven years is too long a term. This idea of a man learning how to perform the duties of a Judge during his Judicial term, is one which I think is entirely outside the question. I do not think any man should come up to take his place upon the bench who has got to learn the duties of a Judge.

Mr. BROWN. If the gentleman will examine this Article in another section, he will see that it is, provided the Judges to be chosen shall be learned in law. I presume the intention is that they shall learn before they get their appointment. But still I think they will have much to learn after they take their places on the bench.

Mr. FLANDRAU. I think six years is quite long enough. If you place a man upon the bench for ten years, you have him fastened upon the people for that time good or bad. If he is faithful and honest and does the best he can, it is all very well, but he is there for ten years although he may be utterly unacceptable to the people and the bar, and even incompetent to do business; still you cannot impeach him for want of learning; you cannot get rid of him. I think there is a great deal more probability of having such a man fastened upon you by appointment than by election, but so long a term of office is obnoxious to that objection in either case. I think

six years is long enough. I believe that long terms of office are, as a general thing, unwise. Let a man know that he is secure in his position for life, and he becomes oppressive and intolerable and more particulerly in that of Judge than any other office you can mention.

The amendment to the amendment was not agreed to.

The amendment was also rejected.

Mr. FLANDRAU moved to strike out "seven" and insert "six."

Mr. SETZER. It appears to be the intention of this Convention to reduce and degrade the Judiciary to the lowest scale it possibly can. The salary which will be fixed and which ought not to exceed a very moderate sum, will be one that any decent lawyer can earn twice the amount if in the practice of law.

Now, I should like to know how the State and people are going to secure the best legal talent for nothing, and how they are going to induce any good lawyer to give up his practice to go upon the bench simply for the sake of serving the people. If you will extend the term for a reasonable time, it will furnish an inducement for gentlemen to serve. But, sir, I believe that you will get no gentleman practicing at the bar to take the office for six years and you certainly will not be able to secure the best talent to go upon the bench.

Mr. FLANDRAU withdrew his amendment.

Mr. CHASE moved to strike out "seven" and insert "six" in lieu thereof, and to add after the section the following:

"At the first election one Supreme Judge shall be elected for two years, one for four years, and one for six years, after which one Supreme Judge shall be elected every two years."

The object I have in view in offering the amendment, is to secure Judges of different politics by having them elected at different times. If they are all chosen at one election they will probably be all of the same political complexion.

Mr. EMMETT. I am opposed to that amendment for the reason that I want the Judges to be all Democratic.

Mr. CHASE. Very true, but if they should happen to be all Republicans, then I suppose the gentleman would not object to a change.

Mr. SETZER. That is not a supposable case.

Mr. FLANDRAU. If gentlemen will examine this amendment, they will see that although at the first election the Judges are all to be chosen, yet they are elected for different terms, so that in future the elections for all the Judges will never occur at the same time. I believe that has usually been the course pursued and I hope the amendment will prevail.

Mr. SHERBURNE. The gentleman says it has been usual for the Judges of the Supreme Court to be elected for different terms. That proposition was presented before our Committee. I took occasion to look into the different Constitutions and did not find more than one or two instances where that course has been pursued. But, Mr. CHAIRMAN, I do not believe in the doctrine, and I hardly see how the members of this Convention can favor a proposition of that kind. I believe that seven years is little enough time for a Judge to the Supreme Court to occupy the bench. It is objected that the Judges should not all go out at the same time. Well, sir, if that should be the result, I can hardly see what harm would follow, but it would rarely ever happen practically that the terms of two Judges will run out at the same time. Some of them resign; some die; some become too old and infirm; and the result is, that they are appointed at different periods. I believe it will be found in practice, that there is no possible necessity for any such provision to accomplish the object which the gentleman wishes to reach.

Mr. FLANDRAU. I think it would be very well for some arrangement of this kind to be made to start with when our machinery goes into operation. After that, they may, as the gentleman suggests, be elected at different periods without any special provision on the subject.

Mr. SHERBURNE. If the gentleman will offer an amendment fixing the terms of office of the Judges to be elected at the first election, at three, six and nine years, I will consent to it, although I think such a provision unnecessary. But, sir, I think, under no circumstances should we elect a Judge for two years.

Mr. MEEKER. In one point of view it is a matter of importance. If we are to elect our Judges, and the object is to bring them right fresh from the people, why, I suppose, the shorter the term for which they are elected the better. If the object is to make our Supreme Court a perfect reflexion of the sentiment and popular views—of the legal learning and Constitutional opinions, of the people,—then I think it would be desirable to have frequent successive elections. Let them be held once in two years, or—what would be still better—once in three months. I think such an arrangement is quite necessary to carry out practically the views which gentlemen have advanced on this floor.

The amendment was not agreed to.

Mr. FLANDRAU. I move to amend by striking out the words "shall be a resident of his district at the time of his election." The Judge will of course be required to reside in his district after

he is elected, but I see no good reason why the people should not be at liberty to select the best man they can get, whether he resides in the district or not.

Mr. SHERBURNE. The proposition of the gentleman has been made a matter of some consultation in the Committee. It is supposed by some that there will be districts in which no competent person can be secured, and I have, therefore, personally no objection to the amendment.

The amendment was not agreed to.

Mr. BROWN. I move to strike out in the first line of the following Section the words "shall be men learned in the law and":

SEC. 6. The Judges of the Supreme and District Courts shall be men learned in the law, and shall receive such compensation at stated times as may be prescribed by the Legislature, which compensation shall not be diminished during their continuance in office, but they shall receive no other fee or reward for their services.

If you are going to give the election of Judges to the people, I do not see why you should trammel the people by specifying what sort of men they are to select for Judges. They certainly should have the right to select such men as they see fit, whether learned in the law or not.

Mr. CHASE. I think it will be very difficult to find any such men who will be candidates before the people.

Mr. FLANDRAU. I think the gentleman from Sibley (Mr. BROWN) must have some personal aspirations for a Judgeship. [Laughter.] I suppose the meaning of the term which the gentleman proposes to strike out is that the candidate shall be a Counsellor or Attorney at Law. If he has been admitted to the bar, that is all which will be required.

Mr. EMMETT. That is the legal construction of the term.

The amendment was not agreed to.

Mr. CHASE moved to strike out the word "shall" wherever it occurs in the following Section, and insert the word "may":

SEC. 7. There shall be established in such organized County in the State a Probate Court, which shall be a Court of Record, and open at all times. It shall be held by one Judge, who shall be elected by the voters of the County, for the term of four years. He shall be a resident of such County at the time of his election, and reside therein during his continuance in office, and his compensation shall be provided by law. He may appoint his own Clerk where none has been elected, but the Legislature may authorize the election, by the electors of any County, of one Clerk or Register of Probate for such County, whose powers, duties and compensation, shall be prescribed by law, and whose term of office shall be four years. A Probate Court shall have jurisdiction over the estates of deceased persons and persons under guardianship, but no other jurisdiction, except as prescribed by this Constitution.

Mr. EMMETT. I hope the gentleman does not intend to strike out the word "shall" *wherever* it occurs in the section.

Mr. CHASE. I will modify the amendment so as to make it apply only to the first line.

The amendment was not agreed to.

Mr. WAIT moved to amend the section in the fourth line by striking out the word "four" and inserting "two."

The amendment was agreed to.

Mr. BROWN moved to strike out the words "and whose term of office shall be four years," in the eleventh and twelfth lines, and to insert in the tenth line after the word "duties," the words "term of office," so as to make the section read:

SEC. 7. There shall be established in such organized county in the State a Probate Court, which shall be a Court of record, and open at all times. It shall be held by one Judge, who shall be elected by the voters of the county, for the term of two years. He shall be a resident of such county at the time of his election, and reside therein during his continuance in office, and his compensation shall be provided by law. He may appoint his own Clerk, where none has been elected, but the Legislature may authorize the election, by the electors of any county of one Clerk or Register of Probate for such county, whose powers, duties, term of office, and compensation shall be prescribed by law. A Probate Court shall have jurisdiction over the estates of deceased persons and persons under guardianship, but no other jurisdiction except as prescribed by this Constitution.

The amendment was adopted.

Mr. SHERBURNE. I move to strike out the words "and open at all times," and to insert in lieu thereof the following: "and be held at such time and places as may be prescribed by law." I think it is hardly necessary to require these Probate Courts to be constantly in session. In many of the counties they will have comparatively little business and I think it will be better to leave it with the Legislature to prescribe the times and places when these courts shall be held.

Mr. EMMETT. I should have no objection to the gentleman's amendment if the people would die at such times and places as may be prescribed by law. [Laughter.]

The amendment was agreed to.

Mr. STREETER. I moved to strike out the word "three," and insert in lieu thereof the word "two" in the following section:

SEC. 8. The Legislature shall provide for the election of a sufficient number of Justices of the Peace in each County, whose term of office shall be three years, and whose duties and compensation shall be prescribed by law; provided that no Justice of the Peace shall have jurisdiction of any civil cause where the amount in controversy shall exceed one hundred dollars, nor in a criminal cause where the punishment shall exceed three months' imprisonment, or a fine of one hundred dollars, nor in any case involving the title to real estate.

Mr. SETZER. Would it not be well to require that these gentlemen also should be "learned in the law?"

The amendment was agreed to.

Mr. EMMETT. I move to insert the words "under this Constitution," after the word "office" in the fourth line of the following section:

SEC. 11. The Justices of the Supreme Court and the District Courts shall hold no office under the United States, nor any other office under this State. And all votes for either of them for any elective office, except a Judicial office, given by the Legislature or the people, during their continuance in office, shall be void.

I believe it has been decided as to members of Congress and of the United States Senate, and other officers provided for under the Constitution of the United States, that the State has no power to prescribe qualifications, and I hope this Convention will not stultify itself by leaving such a provision in the Constitution.

Mr. MEEKER. The limitation which the Constitution of the United States imposes, is a disqualification to hold office under the Constitution of the United States, and of course, no provision of a State Constitution could affect it.

Mr. EMMETT. I will say to the gentleman that as far as I know the object was to prevent Judges from soiling their ermine by dabbling in politics, and particularly to prevent them from striving to become United Senators and Members of Congress. Now sir, I think that no provision which we insert in our Constitution can have any effect in that direction. Their qualifications are prescribed by the Constitution of the United States, and it is folly for us to attempt to do anything to interfere. If the people choose to elect a Judge of the Supreme or District Court as a member of Congress, or if the Legislature choose to elect him a Senator of the United States he will be admitted in spite of all the disqualifications we may insert in our Constitution.

Mr. MEEKER. The object of the provision to which the gentleman alludes in Section eleven was to prevent Judges occupying seats in our Courts from dabbling in politics and electioneering for any office to which they would be eligible under the Constitution of the State. That was all.

The amendment was agreed to.

Mr. FLANDRAU. I move to strike out the words "unless the number of Districts shall be diminished," in the following Section:

SEC. 12. The Legislature may at any time change the number of Judicial Districts or their boundaries, when it shall be deemed expedient, but no such change shall vacate the office of any Judge, unless the number of Districts shall be diminished.

I will simply state that the object of the amendment, is to put

it absolutely out of the power of any legislative body, to legislate a Judge out of office.

Mr. SHERBURNE. I think the gentleman is right as to his object. It is a matter to which I gave a good deal of attention in drawing up this report, and which was considered by the different members of the Committee. It is possible that the line may be stricken out without affecting seriously the interests of the Territory. Perhaps the time may never arrive when the people will desire to diminish the number of Districts, but sir, I should like to know what is to be done with a Judge when he has no District? I know of no reason why, if the people of this State determine that they have more Districts than is necessary, they should not have the power to diminish them. If so, then they should also have power to diminish the number of Judges. Now sir, the people at large will never enter into any combination, for the purpose of legislating out a Judge. Such things are done by combinations of the Legislature and not by the people at large. Sir, you will not find that the people of this Territory or State, will be willing to diminish the number of Districts from any mere petty consideration of spite which may be entertained towards a Judge. It seems to me there is propriety in leaving the Section in its present form; so that if instances should arise such as to make a change desirable, it will be in the power of the people of the State, to do what they shall think proper under the circumstances.

The amendment was agreed to.

Mr. SIBLEY moved to strike out the following Section:

SEC. 15. There shall be an Attorney General elected by the electors of the State, whose term of office shall be three years, and whose compensation and duties shall be fixed by law.

The motion was agreed to.

Mr. STREETER moved to strike out the words "appointment or," in the first line of the following Section:

SEC. 16. The Legislature may provide for the *appointment or* election of one person in each organized County in this State, with Judicial power and jurisdiction not exceeding the power and jurisdiction of a Judge of the District Court at Chambers, or the Legislature may, instead of such appointment or election, confer such power and jurisdiction upon the several Judges of Probate in the State.

The motion was agreed to.

Mr. FLANDRAU. There ought to be some name for the office created in this 16th Section. I move that the words "to be called a Court Commissioner," be inserted after the word "State," in the second line.

The amendment was agreed to.

On motion of Mr. BECKER, the Committee rose and reported back the Article to the Convention with amendments, and asked concurrence therein.

On motion of Mr. MEEKER, the Convention at half-past five o'clock, P. M., adjourned.

TWENTY-NINTH DAY.

SATURDAY, Aug. 15, 1857.

The Convention met at 9 o'clock A. M.

Prayer by the Chaplain.

The Journal of yesterday was read and approved.

On motion of Mr. A. E. AMES, a call of the House was ordered, and the Sergeant-at-Arms was directed to report the absent members in their seats.

On motion of Mr. KINGSBURY, further proceedings under the call were dispensed with.

THE JUDICIARY.

The PRESIDENT stated the question pending to be on the motion that the amendments reported by the Committee of the Whole on the Judiciary Department be acted on in gross.

Mr. SETZER. I will simply state one or two reasons why I shall vote against concurring in the amendments in gross. The Committee of the Whole have adopted an amendment making your entire Judiciary elective. We have been told by the President of this Convention, in Committee, as a reason for voting in favor of that amendment, that if the system of appointing the Judiciary be adopted, the people will reject this Constitution. Sir, I do not think such an argument should have any weight before the Convention. The right is always expedient. If we know we are right in providing for an appointed Judiciary, we should make such provision without regard to any other consideration. This subject is one of so much importance, it strikes so directly at the very root of our whole system of Government, that it seems to me we should not act upon it from any consideration of mere expediency.

The PRESIDENT. Although not strictly in order, the Chair asks permission, inasmuch as direct reference has been made to him, to say he did not recommend that any gentleman should vote for or against an elective Judiciary, simply on the ground of expediency. He said that as a matter of principle he was for the

adoption of the amendment, and also stated that he did not believe any other system could be carried before the people.

Mr. BECKER. The Article which the Convention had under consideration in Committee is perhaps the most important in the whole Constitution. I stated then that in my judgment the Standing Committee to which that subject was referred was composed of the best men in the Convention. They have given us their report. The Committee of the Whole to which that report was referred, has made many changes in its character. Some of them I approve, and should be glad to vote for; others I am decidedly opposed to. It is very questionable in my mind whether, in our efforts to perfect that report, we have, as a whole, improved it. I am opposed to some of these amendments, because they express principles which in my judgment are wrong, and to others because they embody too much legislation. The amendments, many of them, were adopted by a bare majority in a very thin house. If compelled to vote upon the amendments in gross, I shall vote against them, although I should be glad to vote for several of them if I can have the opportunity of voting upon them separately. For that reason I shall vote "no" upon the motion under consideration.

Mr. BROWN. I rise simply for the purpose of saying that I shall vote against the proposition to take the vote upon concurring in the amendments in gross, for the same reasons that have been expressed by the gentleman who has just taken his seat. There are some of the amendments adopted by the Committee of the Whole, for which I would cheerfully vote, but there are others for which I cannot vote; and I shall be compelled to cast my vote in the negative if they are voted on as a whole.

Mr. M. E. AMES. I find myself in the same category with the gentleman who has just spoken, only a little more so. Having been absent yesterday, I do not know what amendments have been adopted, and I am therefore opposed to voting upon them in gross.

The question was then taken, and the motion was decided in the affirmative: yeas 25, nays 18, as follows:

YEAS—Messrs. Armstrong, Butler, Baker, Barrett, Bailly, Curtis, Cantell, Chase, Emmett, Faber, Gorman, Holcombe, Jerome, Kennedy, Leonard, Murray, McMahan, Norris, Prince, Setzer, Streeter, Tenvoorde, Wait, Wilson and Mr. President—25.

NAYS—Messrs. A. E. Ames, M. E. Ames, Becker, Brown, Baasen, Day, Flandrau, Gilman, Kingsbury, Lashelle, Meeker, McFetridge, Sherburne, Stacey, Shepley, Sturgis, Tuttle and Warner—18.

So the amendments were ordered to be considered in gross.

The question now being upon concurring in the amendments,

Mr. SETZER demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken, and it was decided in the affirmative: yeas 27, nay 16, as follows:

YEAS—Messrs. Armstrong, Butler, Baker, Barrett, Bailly, Curtis, Cantell, Chase, Emmett, Flandrau, Gorman, Holcombe, Jerome, Kennedy, Leonard, Murray, McMahan, Norris, Prince, Sherburne, Stacey, Shepley, Streeter, Tenvoorde, Vasseur, Wilson, Mr. President—27.

NAYS—Messrs. A. E. Ames, M. E. Ames, Becker, Brown, Baasen, Day, Gilman, Kingsbury, Lashelle, Meeker, McFetridge, Setzer, Sturgis, Tuttle, Wait and Warner—16.

So the amendments were adopted.

The report of the Committee on the Judiciary, as amended, was then ordered to be engrossed.

Mr. STACEY moved that the Convention adjourn.

The motion was not agreed to.

SEAL AND COAT OF ARMS.

On motion of Mr. A. E. AMES, the Convention resolved itself into Committee of the Whole, on the report of the Committee on the Seal of the State, Coat of Arms and design of the same, (Mr. STACEY in the Chair.)

The report was read as follows:

The Committee upon the Seal of the State, Coat of Arms, and Design of the same, respectfully submit the following report:

In the opinion of your Committee it is the appropriate work of the Legislature of the State, to prepare a Seal, and determine upon a design of the same, and therefore, present the following provision, to take such place in the Constitution as the Convention may direct:

SEC. There shall be a Seal of the State, which shall be kept by the Governor, and used by him officially, and shall be called the "Great Seal of the State of Minnesota."

J. S. NORRIS,
JOSEPH R. BROWN,
HENRY G. BAILLY. } Committee.

Mr. BECKER moved to strike out the Section.

The motion was not agreed to.

On motion of Mr. PRINCE, the Committee rose and reported the Article back to the Convention without amendment, and recommended its adoption.

On motion of Mr. EMMETT the Article was ordered to be committed to the Committee on Miscellaneous Subjects, with instructions to embody the same in their report.

ENGROSSED ARTICLES.

Mr. A. E. AMES, from the Committee on Enrollment, on leave presented the following report:

Your Committee on Enrollment report as correctly engrossed, the following named Articles, to wit:

Impeachments and Removal from Office, and Finances of the State and Banks and Banking.

A. E. AMES,
C. J. BUTLER, } Committee.

INVITATION TO HON. S. A. DOUGLAS.

Mr. BROWN, on leave, introduced the following Preamble and Resolutions, which were unanimously adopted.

Whereas, Hon. Stephen A. Douglas, United States Senator from the State of Illinois, is now on a visit to the Capital of Minnesota,

And Whereas, The exertions of Mr. Douglas in originating and defending the great principles which have so clearly demonstrated the beneficial results incident to the peculiar features of the institutions of our country.

And Whereas, The benefits we have enjoyed through the unremitted attention and support of the interests of Minnesota, by Senator Douglas, from the first application of our citizens for a Territorial organization to the present time, merit the gratitude of every friend of our prosperous Territory, which gratitude should be exhibited upon every proper occasion; therefore

Resolved, That the Constitutional Convention of Minnesota respectfully invite the Hon. S. A. Douglas to visit the Convention at any time during his stay in the city.

Resolved, That a copy of the above Resolutions be forwarded to Hon. S. A. Douglas, by the Chair.

On motion of Mr. SETZER, at half-past ten o'clock, the Convention adjourned.

THIRTIETH DAY.

MONDAY, August 17th, 1857.

The Convention met at 9 o'clock A. M.

Prayer by the Chaplain.

The Journal of Saturday was read and approved.

RECEPTION OF SENATOR DOUGLAS.

The Hon. STEPHEN A. DOUGLAS, United States Senator from Illinois, entered the Hall and was received by the PRESIDENT and members standing.

On motion of Mr. GORMAN, the Convention took a recess of one hour.

After the recess had expired, the Convention was called to order by the PRESIDENT, whereupon,

On motion of Mr. BROWN, the Convention adjourned.

THIRTY-FIRST DAY.

TUESDAY, August 18th, 1857.

The Convention met at 9 o'clock A. M.

Prayer by the Chaplain.

The Journal of yesterday was approved.

JOINT COMMITTEE.

The PRESIDENT presented the following communication to the Convention:

ST. PAUL, August 18, 1857.

Hon. H. H. SIBLEY, *President.*—SIR: The Convention over which I preside did, upon the 18th day of August, adopt a resolution for the appointment of a Committee to confer with a similar Committee of the Convention over which you preside to consider and agree upon, if practicable, and report some plan by which the two bodies can unite upon a single Constitution to be submitted to the people.

In pursuance of said resolution, I have appointed Messrs. GALBRAITH, MCCLUNG, ALDRICH, STANNARD, and WILSON, such Committee, and would respectfully ask the appointment of a similar Committee on the part of the Convention over which you preside. Yours most respectfully,

ST. A. D. BALCOMBE, *President.*

On motion of Mr. GORMAN, the Convention took a recess for one hour.

After the lapse of an hour the Convention re-assembled.

Mr. A. E. AMES offered the following resolution:

RESOLVED, That the President of this Convention is hereby authorized to appoint a Committee of Five, to confer with a Committee appointed by the Convention, holding Sessions in the Representative Hall of this Capitol, upon the subject designated in the communication just received, and that the President is hereby authorized to communicate the action of this, to the Convention over which the Hon. Mr. BALCOMBE presides.

Mr. GORMAN. I demand the previous question upon the adoption of the resolution.

Mr. SETZER. I hope the gentleman will not press that motion. I wish to explain the vote I shall give.

Mr. GORMAN. If the gentleman has an explanation to make personal to himself, I certainly will withdraw it.

Mr. SETZER. The step which this Convention is about to take is one which will reflect disgrace upon this body, disguise it as you will. From all parts of the Territory cheers have come up to

us from the Democratic party. Our friends are up in arms, requesting us to remain steadfast upon the principles which we have adopted. But, Sir, gentlemen are very anxious, by their action, to a place upon a level with themselves the caucus sitting in the other end of the capitol, which for weeks they have denounced as illegal and false to their constituents. Now, Sir, I, for one, can never take that step. Just so soon as we admit that body upon an equality with ourselves, so soon do we declare we are no longer a Constitutional Convention. For that reason I ask the yeas and nays, and I shall demand the right of placing myself upon the record as voting against a resolution which will bring ruin on us.

Mr. BAKER. Inasmuch as it has been decreed elsewhere that this resolution is to pass, I cannot record my vote upon it without placing upon record the reasons which will govern me in my action. Sir, I cannot vote for this resolution, the effect of which is to acknowledge the legality of the body sitting in the other wing of the Capitol, without reversing all my former action in this Convention. Mr. PRESIDENT, never let it go to the world that I have yielded to the body sitting in that other wing; never let it be said that I stultified myself so much as to vote for such a resolution. I have hitherto regarded the Democratic party with which I act, as the great conservative party of the country. I have regarded the Democrats sitting in this hall as occupying high conservative ground, as the body which has alone conformed to the forms and usages of law. And, sir, as I love that party, I cannot go with them in this dangerous step, the effect of which will be to blot out all my former votes and action as a member of the Constitutional Convention. Sir, if there is a Constitutional Convention in existence now, it is that sitting in the other end of the Capitol, and if I knew they would receive me as a Democrat, I am not certain that I would not go and seek admission into that body. But I could not take their new Freesoilism, now but eighteen months old. I could not fall down and worship the young child, [Laughter,] but if I knew I could go there as a Democrat, without having my garments soiled, I am not certain that I should not go. There cannot be two Constitutional Conventions, and if this Committee is appointed as soon as they have determined which is the Constitutional Convention. I hope the other body will go over and join them.

Mr. GORMAN. I now move the previous question.

Mr. M. E. AMES. I ask the gentleman to allow me to submit a few remarks before he insists upon that motion.

Mr. GORMAN. I cannot again withdraw the motion.

The previous question was ordered.

The question was put, and it was decided in the affirmative, yeas 33, nays 7, as follows :

YEAS—Messrs. A. E. Ames, M. E. Ames, Armstrong, Becker, Burns, Burwell, Brown, Curtis, Chase, Emmett, Flandrau, Gorman, Gilman, Holcombe, Kingsbury, Keegan, Leonard, Lashelle, Murray, McGrorty, McFetridge, McMahan, Norris, Nash, Prince, Sanderson, Sherburne, Stacey, Shepley, Swan, Tuttle, Warner and Mr. President—33.

NAYS—Messrs. Baker, Barrett, Day, Setzer, Taylor, Tenvoorde and Wait—7.

So the resolution was adopted.

Mr. A. E. AMES, from the Committee on Enrolled Bills, reported as correctly engrossed, the Article on the Judiciary Department.

Mr. A. E. AMES moved that the Convention adjourn ; which motion was not agreed to.

Mr. SETZER. Mr. PRESIDENT, as this body has, by a majority of its members, decided that it is no longer the Constitutional Convention, I should resign my seat if there was an authority to whom I could tender that resignation. As it is, I shall simply leave the Hall.

The PRESIDENT appointed as the Committee authorized by the resolution just adopted, Messrs. GORMAN, BROWN, HOLCOMBE, SHERBURNE and KINGSBURY.

On motion of Mr. CHASE, the Convention, at 11 o'clock, adjourned until 2½ o'clock, P. M.

AFTERNOON SESSION.

The Convention assembled at 2½ o'clock P. M.

FINAL ADJOURNMENT.

Mr. STACEY offered the following resolution :

Resolved, That this Convention adjourn finally on Thursday, the 20th instant, at 1 o'clock P. M.

Mr. BECKER. I would suggest that there are two Committees yet to report, and that under our rules the reports must lie over one day after being made.

Mr. CURTIS. We can suspend our rules.

Mr. CHASE. I would suggest that it will be impossible to get the Articles enrolled by the time named.

The resolution was adopted.

ENGROSSED ARTICLES.

Mr. A. E. AMES presented the following report:

Your Committee on Enrollment, report as correctly engrossed the following Articles, to wit:

Counties and Townships; and School Funds, Education and Science.

A. E. AMES,
C. J. BUTLER, } Committee.

INSTRUCTIONS TO COMMITTEE OF COMPROMISE.

Mr. CURTIS offered the following resolution:

Resolved, That the Committee appointed to confer with a Committee of a Convention in session in the other wing of this Capitol, be instructed that if they fail to come to an agreement with that Committee as to a plan for submitting but one Constitution to the people, that they endeavor to agree upon a plan for submitting two Constitutions upon the same day to the people.

Mr. BROWN. I hope that resolution will not be adopted. The proposition now before the Committee by their instructions from both wings of the Capitol, is to ascertain, by consultation, if some arrangement cannot be made by which only one Constitution shall be submitted to the people. While that proposition is under consideration, it seems to me the resolution before us will only serve to divide the attention of the Committee, without accomplishing any good result. If the Committee shall be unable to agree, the proposition which the gentleman now submits, may then very properly come up, but I think it is premature at this time, and I hope it will not be adopted.

Mr. CURTIS. Is it possible at this late day, upon the very heels of the session, that a proposition can be premature, which looks to a final arrangement of a difficulty which has caused a good deal of dissatisfaction and some excitement in the country? Now sir, the passage of this resolution does not contemplate necessarily, any different action upon the part of this Committee, until they shall have exhausted the powers given them this morning; but in case they should find it impossible to agree in submitting one Constitution to the people, it then gives them power to go on with another arrangement without losing time by coming back to this Convention to ask for further instructions. For instance, the Committee may find themselves this afternoon, unable to agree, and they can then proceed no further until they obtain instructions from the Convention to-morrow morning. By the resolution we have just adopted, the Convention is to adjourn *sine die* on Thursday next at one o'clock, giving us but a day and a half after to-day. Under these circumstances, I cannot think the resolution premature.

The resolution was adopted.

The Convention then, at half past three o'clock, adjourned.

THIRTY-SECOND DAY.

WEDNESDAY, August 19, 1857.

The Convention met at nine o'clock A. M.

Prayer by the Chaplain.

The Journal of yesterday was read and approved.

Mr. SHERBURNE announced, by request of his colleague, Mr. BAKER, that he, (Mr. B.,) would not again be in attendance on the session of the Convention.

NOTICE OF A MOTION TO RECONSIDER.

Mr. GORMAN gave notice of his intention to move a reconsideration of the vote by which the Convention agreed to adjourn *sine die* at one o'clock to-morrow. Mr. GORMAN said he gave the notice for the purpose of avoiding any difficulty in consequence of the rule of the Convention requiring one day's notice, in case it became necessary to extend its session beyond the time agreed upon.

UNIFORM OATHS.

Mr. BECKER submitted the following clause, and moved that the same be referred to the Committee on Miscellaneous Subjects, with instructions to report upon the propriety of the same:

The Legislature shall prescribe a uniform system of administering an oath or affirmation, and no other form shall be deemed binding or obligatory, on conscience—PROVIDED, No person shall be compelled to swear in any form inconsistent with their conscience, but shall be permitted in that form most consistent with their belief.

Mr. BECKER said his object was to provide a uniform system of administering oaths particularly during elections.

THE BOUNDARY QUESTION.

Mr. FLANDRAU offered the following resolution, which on his motion was laid on the table for the present, for the purpose of giving members due notice and securing a full vote upon it.

RESOLVED, That the question of the Boundary line of the State be submitted to the people at the same time with the Constitution, as a separate and distinct question, to be voted upon separately; that said submission be in the following form, to wit:

The State of Minnesota shall be bounded as follows: Beginning in the main channel of the Missouri River, at a point where the line of 45 degrees 30 minutes north latitude crosses the same; thence down the main channel of the said River to the mouth of the Big Sioux River; thence up the main channel of the Big Sioux River to the north line of the State of Iowa; thence along the north line of the State of Iowa to the main channel of the Mississippi River; thence up

the main channel of the Mississippi River; and following the line of the State of Wisconsin to the line of 45 degrees 30 minutes north latitude; thence west on said line to the place of beginning.

That on the day of the election for the ratification of the Constitution, at each poll throughout the State, shall be opened a separate ballot-box, in which shall be placed the ballots of all electors who desire to vote for or against the boundary as above proposed. All ballots in favor of said boundary shall contain the words, "for an east and west line;" and all ballots placed in said box different from the above-mentioned ballots shall be counted as a vote against the said proposed boundary. All ballots cast on the question hereby submitted shall be canvassed and returned in the same manner as votes for and against the Constitution.

If the said proposed boundary receives a majority of all votes cast on such separate proposition, then the said proposition, with a certificate of the number of votes polled for and against it, shall be transmitted to the Congress of the United States, with the said Constitution, as a petition of the people of the State for a change of the boundaries thereof in accordance with the lines proposed herein.

On motion of Mr. GORMAN the Convention took a recess for one hour, after which

On motion of Mr. BECKER the resolution was taken up for consideration.

Mr. WAIT moved to amend said Resolution by striking out "45 "degrees 30 minutes," where it occurs in the Resolution, and inserting in lieu thereof, "45 degrees 15 minutes." And the yeas and nays being called for and ordered thereon, there were yeas 13, nays 25 as follows:

YEAS:—Messrs. Armstrong, Barrett, Chase, Flandrau, Gilman, McFetridge, Rolette, Stacey, Shepley, Streeter, Swan, Tenvoorde, Wait—13.

NAYS:—Messrs. A. E. Ames, M. E. Ames, Butler, Becker, Burns, Burwell, Curtis, Davis, Day, Emmett, Faber, Kennedy, Keegan, Leonard, Lashelle, Murray, McGrorty, McMahan, Norris, Nash, Prince, Sanderson, Taylor, Warner, and Mr. President—25.

So the amendment was not agreed to and the question recurred on the adoption of the original resolution.

Mr. FLANDRAU. I hope the vote of the Convention on this amendment does not indicate the vote which will be given on the final passage of the resolution. I want gentlemen to understand that the effect of the resolution is not necessarily to change the Boundary line of the proposed State; it is not to engraft upon the Constitution the East and West division line; but it simply gives to the people the right which they demand, of voting upon the general question as a separate proposition. It is a question upon which they are deeply interested. A great many of the citizens of the Territory will vote against any Constitution which, if it does not secure to them an East and West division line, at least gives them the right of memorializing Congress for the establishment of

such a line. If no such proposition emenates from this body, they will put up a separate Constitution and vote for that. The adoption of this provision by the Convention will serve to strengthen the vote of the people upon the Constitution which we shall send forth. It can do no harm. As I have said, there are a large portion of the citizens of the Territory who demand of us the privilege of voting for memorializing Congress upon the subject, and I should like to hear one good reason why that privilege should be denied them.

Mr. CURTIS. Will the gentleman permit me to ask him to what portion of the people of the Territory he refers? I was not aware that any considerable portion of the people of the Territory desired the establishment of an East and West line.

Mr. FLANDRAU. When the vote comes to be taken upon this question, the gentleman will have brought to his mind very vividly the fact that there is a very large portion of the people of the Territory who are in favor of a division by an East and West line, and who are not only in favor of such a line but who will vote against any Constitution which has not got it in, in some shape. They want as the first proposition, that it shall be inserted in the Constitution itself. If that is denied them, then they want,—and it seems to me they have the right to demand it—the privilege of expressing outside the Constitution, their preference on the subject. I am told by gentlemen who know, that there are whole counties which will poll thousands of votes where this is regarded as the all important question.

But sir, whether the number is small or large, I say it is right that they should have this privilege; and since the Convention have decided they will not put it in the Constitution, this is all I ask. I tell gentlemen that it will add very materially to the strength of the party which grants it. If the proposition is refused here and the Republicans take it up, it will give them an advantage which will be beyond our power to overcome, because very many people will vote regardless of other considerations with the party which gratifies their wishes upon this question. I hope gentlemen will consider deliberately before they determine to incur the opposition of these citizens.

Mr. WAIT. I understand it to be a principle of the Democratic party that the people shall determine their own institutions and their Boundaries for themselves. Now sir, when we form a Constitution and submit it to the people for their ratification or rejection, why may we not submit to them along with it, the question of Boundary as a distinct proposition? If we are for the principle

that the voice of the majority shall rule, and that the majority in this Territory are for an East and West line, I know of no good reason why the opportunity should not be given for the expression of that voice upon this distinct proposition, when the Constitution itself is submitted to the people. Why are those gentlemen who advocate the doctrine of popular Sovereignty afraid of the people upon this question? Sir, it is a Democratic doctrine, and it is the doctrine which every gentleman on this floor has advocated in the abstract.

But sir, I know there are gentlemen in this Hall representing sectional interests who wish to gag down the popular voice upon this subject. One gentleman has risen here, and asked whether there is any portion of the people of this Territory in favor of an East and West line. Sir, I can answer that gentleman, that there is a large proportion of the people of the Territory who are in favor of such a line. The whole Northern portion of the Territory, as represented on this floor, have gone for an East and West line. A large portion of the Southern people are in favor of that line, and I can see no reason why the proposition should not at least be submitted to the people as a separate proposition.

Mr. SHEPLEY. I represent a constituency on this floor who are almost unanimously in favor of an East and West line. With the exception of those living on a small strip lying south of Crow River, I do not believe there is a single man in the northern portion of the Territory who would not vote for such a line. I also believe that the establishment of that line would be for the interest of the whole Territory. It is no mere sectional matter, in which some few persons or localities are to be interested, and for that reason I am in favor of this resolution.

When there was no prospect of a compromise between the two Conventions, as a matter of justice to the people living in the Southern portion of the Territory, I would have voted for adopting the Boundaries designated by Congress, for the reason that the interests of the majority of the population and wealth residing in that section required the establishment of a State Government and I would not have jeopardized the admission of the State by any other division; but sir, the effect of acquiescing in those Boundaries is to drive us who are in the minority, into a State Government whether we are willing or not. In the present condition of things, with the prospect of a compromise before us, I can see no objection to this proposition. I do not see how any member on this floor can object to the people who are in favor of such a course, respectfully asking Congress to grant them another line. I cannot see upon what ground any gentleman who believes in the right of

the majority to rule, can deny to the people, if a majority shall be for it, the right of petitioning Congress for a change of Boundary.

I repeat, sir, that the establishment of an East and West line will prove for the interest of the whole Territory. Not only the North and the South, but the Central portion of the Territory will be benefitted by it. I am in favor of the resolution.

Mr. BECKER. I do not design to discuss this resolution at this time; but, inasmuch as the proposition is before us, and the gentleman from Nicollet has called upon the opponents of the measure to give reasons why it should not be adopted, I desire to state briefly some of the reasons which will influence me in voting against it:

I am opposed to it in the first instance, because I regard it as a settled question. I think the people of the proposed State, in sending their Delegates to this body with instructions upon this very subject, settled the question definitely. I do not believe there is a district in the whole Territory, where the question was not agitated and made an issue in the election of Delegates to this Convention, unless it may be in some localities in which there was no difference of opinion relative to it. Sir, a large and overwhelming majority of the members of the Constitutional Convention were sent here because of their known opposition to this measure, and because they had publicly expressed that opposition; and they have in this body expressed themselves by a very large majority, in favor of the North and South Line.

I am opposed to it, again, because I think there are already issues enough upon the subject of the proposed admission of Minnesota into the Union. It is well known, that in all probability two Constitutions will be submitted for the action of the people of the Territory. It is well known that difficulties will arise when we come before Congress for admission, from the peculiar state of affairs in reference to the Constitution and organization of this Convention, and I am opposed to multiplying issues before the people.

Mr. PRESIDENT, I am opposed to this resolution on the ground of expediency. I will state my reasons briefly. It is proposed in the coming campaign to district the State, and elect State Officers. Now, sir, if you adopt this measure, you will leave the people residing in one portion of the Territory in doubt whether they are to be included within the limits of the proposed State or not, and how will it affect the vote there? I believe the necessary, inevitable effect will be to diminish to a very considerable extent, the vote upon the adoption of the Constitution.

Sir, I am in favor of the principle to which the gentlman from

Stearns, (Mr. WAIT,) has alluded—the principle of Squatter Sovereignty—and I believe the Delegates upon this floor have carried out that principle, by executing the wishes of their constituents—when they have by an almost unanimous vote embodied in the Constitution the North and South Line, as proposed by Congress. I do not believe any very large portion of the people desire to have this question again brought up for agitation before them.

Mr. WAIT. The gentleman from Ramsey, who has just addressed the Convention, has remarked that the question of a North and South, or East and West Line, was the issue before the people in the election of Delegates to this body. Now, I wish to ask that gentleman if the question of Negro Suffrage, and all the questions which it was expected would divide the Convention, were not agitated before the people in that election? And is there anything in the fact that this was, in some localities, made one of the issues in the election, any reason why it should not now be made a distinct issue?

Mr. BECKER. I answer the gentleman, that the question of Negro Suffrage was made an issue in the election of Delegates; but the question of Boundary was, in my opinion, definitely decided by the people in that election.

Mr. WAIT. It was an issue with that of Negro Suffrage and other issues, and so it will be now, when the people are called upon to vote upon the adoption or rejection of the Constitution as a whole. But while the Constitution is to be submitted as a whole, I see no reason why this proposition should not accompany it, to be submitted as a distinct issue. The gentleman has said that he is in favor of the principles of Squatter Sovereignty. Sir, if the gentleman is in favor of allowing the people to settle their own institutions and their own boundaries in their own way, why will he not allow them to settle this as a distinct proposition, at the same time they are to vote upon the adoption or rejection of the Constitution?

Mr. FLANDRAU. Before the vote is taken upon this proposition, I want gentlemen to be fully in possession of what the resolution is. I want them to understand that it is not, by its adoption, to be incorporated as a part of the Constitution. It is merely a petition to the Congress of the United States, on a subject of great interest to the people, not to be transmitted there, unless a majority of the people vote for it. The latter clause of the resolution reads:

If the said proposed Boundary receives a majority of all the votes cast on such separate proposition, then the said proposition, with a certificate of the number of votes polled for and against it, shall be transmitted to the Congress of the United States, with the said Constitution, as a petition of the people of the State

for a change of the Boundaries thereof, in accordance with the lines proposed herein.

Now, in moving the adoption of the resolution I asked that some gentleman should give a good reason why this proposition should not be submitted to the people. The gentleman from Ramsey, (Mr. BECKER,) tells us that it has already been passed on by the people —that it was an issue in the election of Delegates to this Convention.

Now, sir, I admit that it entered into the contest as an issue, in some localities, but that it was a general issue in that election, I deny; and even if it had been generally made an issue then, is that any reason why facilities should not be furnished to get up a petition to Congress; that is all we propose. I trust there is no gentleman here who would deny the right of petition to the citizens upon any subject they may desire. Well, sir, this is merely affording them the facilities for petitioning Congress upon this subject at a time peculiarly favorable for bringing out a full expression of their wishes at the polls. Let a separate box be opened and give every man who desires, the opportunity of expressing his preference upon this proposition.

The people can petition Congress upon this subject independent of our action; but what they wish is, that there should be some regularity and general expression of opinion upon the subject, and if a majority favor the proposition, that it shall have a legal recognition and accompany this Constitution when it is transmitted to Congress. Will the gentleman say that because this was an issue which entered into the election of Delegates to this Convention, it is any good reason for denying to the people the right of petition?

But the gentleman is fearful of so multiplying issues before the people, that they will run astray and not know what they are about.

Mr. BECKER. The gentleman surely would not misrepresent me. I made no such remark. I said I objected to this resolution, among other things, because it was needlessly multiplying issues.

Mr. FLANDRAU. I ask the gentleman whether there can be any serious objection to bringing two issues before the people instead of one, or three instead of two, unless it be for the reason that it will tend to distract and make them unintelligible. Then that is the reason, or the objection amounts to nothing.

But, sir, the gentleman presents as another objection, the opinion that the people will vote in the election who may be left outside the limits of the State. Well, sir, if a man elected to office should happen to be left outside the limits of the State, I do not appre-

hend that any very disastrous consequences would follow. If Congress sees fit to change the Boundary, it will be because the people desire it, and I can see no hardships that will be incurred in consequence of such change. It seems to me that the objections which have been urged are perfectly untenable. If gentlemen will deny the people this privilege upon such grounds, I want them to place, and I mean they shall place their votes upon record, against this proposition.

Mr. EMMETT. I propose saying a word or two upon this subject, because, we have been informed, we are about being placed upon record. Sir, if there is any proposition which has been fully passed upon by the people, it is this proposition of a North and South, or East and West Line. The proposition for an East and West Line was so signally defeated in the last election, that there could be no pretext for proposing again to place that Boundary in the Constitution. The gentleman now asks that we shall submit the question in the shape of a petition to Congress, and says that is all he is asking for. Why, sir, it is as much as he could ask, under the circumstances. But, sir, he might just as well ask for the same privilege upon any other question we have passed upon. There is a large and respectable portion of our population who are in favor of Negro Suffrage, and you might as well provide for a separate vote upon that subject as this. We have provided in the Constitution for the passage of a Banking Law under certain circumstances. Now, a large portion of our population are opposed to banks in any shape and form, and you might as well open a separate poll upon that subject as this. On the same principle, you might open separate polls upon every issue that has come before us. Sir, as a Democrat, I do not feel called upon to reopen this question after the people have once passed definitely upon it.

Again, there is a large portion of the Territory lying between the proposed Boundary Line and the Missouri River, which is not represented on this floor. They have no vote here, and how do I know they desire to come in as a State? I protest against any attempt to bring in as a part of the State of Minnesota, the inhabitants of a large tract of country, without consulting their wishes upon the subject.

Mr. PRESIDENT: It seems to me the course of these gentlemen from the North who are in favor of an East and West Line, the adoption of which would exclude them altogether from the proposed State, in participating in the formation of a Constitution which they do not propose to live under, exhibits an extent of modesty rarely to be met with. Sir, I protest against the right of these

gentlemen to vote in the formation of a Constitution until it is determined whether they are to be included within the limits of the proposed State. I object to the engrafting of the peculiar notions of gentlemen who propose to remain outside, in the Constitution under which we are to live.

Mr. WAIT. If a majority of the people are in favor of an East and West Line, why not let them have it?

Mr. EMMETT. What I was objecting to, was the right of those who are not within the State which they propose, assisting us in the formation of a Constitution, under which we are to live.

Mr. WAIT. The gentleman did not answer my question.

Mr. EMMETT. I answer the gentleman, that a majority, and a very decided majority, have already decided in favor of a North and South Line. The gentleman will remember that except in St. Paul, and perhaps a few other places where there was no difference of opinion on the subject, almost every member of the Convention was elected upon that issue. I say, therefore, that the people have already decided the question, and I am unwilling to submit the question again, because it is unnecessary.

Mr. M. E. AMES. It becomes, perhaps, proper, that I should state the reasons for the vote I shall give upon this resolution, as I shall probably differ in that vote from most of my colleagues on this floor, representing the same constituency. I cannot vote against the resolution which the gentleman from Nicollet, (Mr. FLANDRAU,) has introduced here. But while I shall vote for that resolution, I wish it distinctly and unequivocally understood that I am in favor of the Boundaries being adopted precisely as they are prescribed by the Enabling Act of Congress—precisely as they are adopted already in our Constitution. And I will say with my colleague who has just addressed the Convention, that I regard the question as already settled and effectually settled by the election of Delegates to this Convention. But, although I believe the Boundaries prescribed by the Enabling Act, are the best Boundaries—the best line of demarcation for the Territory, and that a very large majority of the people are in favor of that Line—yet it is undeniably true, that there are in the Territory of Minnesota a large number of persons, residents of different localities, comprising a party respectable in point of numbers, who are in favor of what is termed the East and West Line. And, sir, the friends of that Line are not confined to the Republican party; they are not confined to the Democratic party. They are made up of both Democrats and Republicans, irrespective of party, and are governed in this regard, perhaps,

more by the interest of particular localities than by any party ties. And although there are but few gentlemen upon this floor, representing constituencies who are in favor of an East and West Line, gentlemen must not forget that a large number of Republican Delegates in the East end of this Capitol represent among their constituents many Democrats, who will vote for the Constitution which gives them the privilege contained in the resolution before us.

Now, sir, I do consider that under our form of Government and under our policy, the wishes of that party should not be disregarded —they should be respectfully considered; not by way of conceding anything in respect to our boundary line, which is to be embodied in the Constitution, but by allowing to go out with the Constitution in the election to be held, a simple proposition, offering those who are in favor of an East and West Boundary Line, an opportunity of petitioning Congress to change the boundary which they have prescribed, in this particular. The gentleman from Nicollet has well said, it is merely recognizing in a particular form, the right of petition.

It may be said, what will it all amount to? I do not suppose it will amount to anything. If gentlemen who oppose this resolution are correct in their position, that a very large majority of the people are in favor of retaining the boundaries we have adopted, as in my opinion they most certainly are, then the only result will be to allow the minority the satisfaction of recording their votes in favor of a change, whether it be a large minority or small minority. If a majority are in favor of the Boundaries designated in the Enabling Act, of course Congress would make no change; and even if a majority were in favor of an East and West Line, I doubt very much whether it is to be presumed that Congress would change the Boundaries it has already prescribed.

But, sir, there is another principle and a great principle, involved in this movement of the gentleman from Nicollect. It is no more nor less than enunciating in this particular form, upon the floor of this Convention, the right of the people to petition Congress—the right of petition founded upon principle; and that, I regard as one of the fundamental principles of our Government, and eminently so of the Democratic party.

The only objection which can be urged, is the form in which it is asked that the people may have the opportunity of bringing it before Congress, and I do not consider that form objectionable at all. It can do no harm, and I deem it but right, I deem it a matter

of pure justice, that this privilege shall be granted in the form presented by the gentleman from Nicollet.

Mr. BECKER. I think that not only my colleague (Mr. Ames,) will be surprised at the position taken by him, but I think the mover of the resolution himself, will be surprised at the aid he is receiving from this unexpected quarter; and, Mr. President, I am not only surprised at the position my colleague assumes, but I am surprised at the reasons he gives in support of that position. He is in favor of the resolution because it can do no harm. Now, Mr. President, I venture to say that no other gentleman on this floor would advocate the propriety of putting a proposition into the Constitution simply because it will do no harm. Sir, if it can do no harm, it can do no good, and I am opposed to calling on the people to vote upon a proposition at the election, simply because it can do no harm.

But the gentleman from Ramsey, says it is simply enunciating the principle of the right of petition. Sir, I do not believe the people of this Territory need any such enunciation upon the part of this Convention to protect them in the right of petition. Has the right to petition Congress ever been called in question? I do not believe there is a man throughout the length and breadth of this land, who denies the right of the people in their sovereign capacity, to petition Congress upon this or any other matter.

Mr. M. E. AMES. My colleague misrepresents me. I have not asserted nor intended to assert, that to reject this resolution would be to deny to the people the right of petitioning Congress. That is a right over which this Convention has no control. I asserted that the privilege was asked of petitioning Congress in this particular mode, and that all the objections which had been raised by the opponents of the resolution, were against granting to the people this privilege. The whole controversy, as I understand it, arises in reference to the form in which it is proposed to present their petition to Congress, not in reference to the right of petition itself.

Mr. BECKER. I supposed there was nobody who would at this day, bring in question the right of petition. Our Constitution itself, upon its face, protects the people in that right. I apprehend then, that this argument cannot be brought to support the neces sity for this resolution.

But, sir, I should not have risen again upon this question, if the mover of this resolution, (Mr. Flandrau,) had not, contrary to his usual custom, seen fit to misrepresent the position taken by me in my former remarks.

I regard this resolution as, in the language used by lawyers

simply a motion for a new trial. The whole question has been settled once by the people and settled with a unanimity surprising to us all. I am opposed to bringing this issue up at this time, because, as I said, it will have a tendency to make the issues already before the people more complex; not because I fear the people will not be able to understand them, not because it may have the effect of distracting their attention from the material issues of the Constitution itself, which we, as a Constitutional Convention, desire shall be decided by the people upon their merits alone. For this reason, I am opposed to multiplying issues in the canvass—for this reason I am opposed to the adoption of the resolution, and I am not afraid to cast my vote against it for fear any constituent of mine shall construe the vote as against the principle of Squatter Sovereignty, or charge me with being opposed to allowing the people the privilege of settling their own affairs. I repeat that the will of the people has been but recently expressed upon this question, and I am not for pressing the matter again upon their attention. I do not believe that they desire that it should be again presented. Sir, it is an insult to the people to present it again for their decision. It is as much as to say that we believe they have changed their opinions on this subject or that we believe they will change—that we are not satisfied with their decision. I am satisfied with the verdict they have given, and I see no reason for supposing that they wish to change it.

Mr. SHEPLEY. I deny the position taken by the gentleman who has just taken his seat, that the people have given their verdict upon this subject. I deny it for two reasons. In the first place, there are a large portion of the delegates elected to this Convention—not a majority, but still a large portion of the duly elected members who have not chosen to take their seats here with us. Their constituencies have been misrepresented upon this floor, and for that reason there has not been a fair expression of the will of the people of the Territory in any vote which has been taken in this Convention.

As I have already stated, when the prospect was that we were to go before the people with two Constitutions, I was in favor of accepting the division as proposed by Congress, because I did not feel justified, representing as we do in the North, a minority of the population and wealth of the Territory, in doing any act which might have the effect of keeping the State out of the Union. But now, when there is a prospect that only one Constitution will go forth, we ask that the right shall be granted to us of petitioning

Congress for a change of boundary by such a form as shall show to Congress what proportion of the people desire the change.

But the gentleman from St. Paul, (Mr. EMMETT,) thinks the delegates from the North upon this floor, have not shown a becoming modesty of voting upon the various provisions of the Constitution when we desire to exclude ourselves from the State. Sir, if we are to be forced within the jurisdiction of a State Government, I ask if we have not the right to a voice in forming the organic law under which we are to live? We will make that organic law as perfect as we can, so as to provide for the contingency of being compelled to come within the State organization.

Mr. PRESIDENT, in my opinion, we ought to have another line than that fixed by Congress in the Enabling Act, and I say it is but right that the people shall have the opportunity of expressing their views upon the question in the form proposed in the resolution.

Mr. CURTIS. I do not desire to make a speech, but I desire simply to state a reason which I think has not been stated by any other gentleman, why I, who am in favor of a North and South Line, shall vote for this resolution. It is undeniably a fact, that up to the present momont, there has been no vote distinctly upon this question by the people. Gentlemen have spoken of its being made an issue in the election of delegates to this Convention, and of an overwhelming majority being in favor of a North and South Lino. Now, sir, I deny that the question has been presented to the people as a distinct issue, and sir, I look to this further possible contingency. I presume, in all probability, two separate Constitutions will be presented to the people. Now suppose this proposition should accompany these Constitutions. Suppose the people, in the majesty of their power, should reject both these Constitutions and should by an overwhelming majority, vote in favor of this proposition, whenever another Convention should be called and delegates elected, the question of boundary would then have been acted upon distinctly by the people, but I submit that it has not been so acted upon now.

For this reason, in addition to the reasons which have already been presented, I shall vote in favor of the resolution offered by the gentleman from Nicollet.

Mr. FLANDRAU. I hope the Convention will indulge me a few moments longer, because I feel so profound a solicitude in the result of this proposition that I do not propose to leave any objection unanswerd which it is in my power to answer.

The gentleman from Ramsey, (Mr. BECKER,) thinks I was sur-

prised in receiving aid in support of this resolution from so unexpected a source as that of his colleague, (Mr. AMES.) Surprised at what? Surprised at receiving support in the cause of right? Surprised at receiving support in the cause of the people? Never, sir. The surprise which takes possession of my mind, is to see any gentleman upon this floor rise in opposition to a resolution of this character. I am surprised to see any gentleman who calls himself a Democrat, who professes to respect the wishes of the people, get up to oppose this proposition.

The gentleman from Ramsey, (Mr. EMMETT,) objects to this resolution because it will have the effect if the East and West line is adopted, of bringing within the limits of the State a large extent of country lying between the Missouri and the proposed North and South line which is not represented upon this floor, and in respect to which the wishes of the people have not been expressed. Sir, the gentleman forgets that a large portion of the people of the Territory embraced within the limits designated by Congress are also unrepresented upon this floor because their delegates have declined to take their seats with us. But, sir, I ask the gentleman which is the greatest presumption, to bring in this country lying btween the proposed line and the Missouri River, containing perhaps fifty white people who are not represented upon this floor, or to bring in this whole northern Territory where the people are represented upon this floor and are almost to a man against it?

The gentleman from Ramsey, (Mr. BECKER,) answers the argument of his colleague, (Mr. AMES,) in support of this resolution, that the proposition can do no harm, by saying that it if can do no harm it can do no good. Well, sir, this argument is about as tenable and conclusive as most of the arguments by which gentlemen have sought to excuse their opposition to a proposition of this nature. The gentleman again tells the Convention that I have misrepresented his position. He says that I charge him with alleging that the people are not intelligent enough to analyze their votes correctly in consequence of multiplying the issues before them, if this proposition is presented to them separately. Well, sir, I did so say, and I say now that it is a logical inference from the gentleman's own argument. If there is any objection to multiplying the issues before the people, it must be for some reason, and if it is not because the people cannot discriminate between them so as to vote intelligently upon them, I ask what is the reason of the objection? The gentleman says that by making immaterial issues in the election, the material issues will be lost sight of by the people. That is the apology the gentleman sets up, and by which he pro-

poses to show that I have misrepresented him. The material issues will be lost sight of, and why? Because the people are not intelligent enough to discriminate between them and to vote intelligibly upon them. The argument amounts to that or it amounts to nothing. Mr. PRESIDENT, I believe the people are intelligent enough to discriminate, and that the objections which are brought against this proposition are utterly fallacious, and I tell gentlemen that whenever they attempt to obstruct justice and defeat the wishes of the people, and give reasons to justify their conduct, they must and will inevitably run into just such fallacies as these gentlemen now find themselves involved in.

Now, sir, I wish to say that I do not care especially for the particular line which I have designated in this resolution. I specified the line of 45 degrees 30 minutes, because some line must be designated. If another line will suit gentlemen better, I have no objection, but what I do insist on and what the people insist on, is that they shall have the opportunity of voting upon fixing a parallel of latitude for the division line, instead of a parallel of longitude or a north and south line.

Mr. WAIT moved to amend the amendment by striking out "45 degrees 30 minutes," and insert "45 degrees 20 minutes."

Mr. GILMAN moved that 45 degrees be inserted.

Mr. FLANDRAU, for the purpose of having the whole matter maturely considered, moved to refer it to a Select Committee of three.

The motion was agreed to and the PRESIDENT appointed Messrs. FLANDRAU, BECKER, and NORRIS, as such Committee.

On motion of Mr. CURTIS, the Convention adjourned until half past two o'clock.

AFTERNOON SESSION.

The Convention met at half past two o'clock.

RIGHTS OF WOMEN TO HOLD PROPERTY.

Mr. CURTIS remarked that he had drawn up a resolution in the morning which he then intended rather as a joke, but he now offered it in earnest; he moved the adoption of the following resolution:

RESOLVED, That the Committee on Miscellaneous Business be instructed to report an article or provision, for the purpose and to the end of securing to married or single women, in their own name, and independent of all control by any male person whatsoever, their real and personal property whenever acquired.

Mr. M. E. AMES. I object to the resolution and rise to a point of order that it is not here at the proper time. It should have been introduced this morning when the ladies were present. [Laughter.]

Mr. CURTIS. It is not proper I presume that I should reply to the point of order. I offer the resolution in earnest. I think it is a proper provision of legislation that married women should enjoy all the rights in respect to the possession and disposal of property which they hold before marriage. I say it is a matter of legislation, but I have no objection to the embodiment in the Constitution of a principle which shall require the Legislature to secure them in these rights. I am not a very strong woman's rights man in the ordinary acceptation of the term, so far as the right of suffrage and holding office are concerned, but I think they should be secure in their rights to which I have made reference in the resolution.

Mr. FLANDRAU. I will say to the gentleman that the Committee on Miscellaneous provisions have the subject to which his resolution relates under consideration and will report a similar provision.

The resolution was adopted.

LOCATION OF THE CAPITOL.

Mr. MURRAY offered the following resolutions, and moved to refer them to the Committee on Miscellaneous subjects with instructions to incorporate them in the Article of the Constitution which they shall report:

RESOLVED, That upon the day that this Constitution is submitted to the people of this Territory for its ratification, or rejection, the electors of this Territory, shall, at each of the usual places of holding election, open a ballot box and appoint Judges as now provided by law and vote for the permanent location of the Capital, and the Town, City or Village having the highest number of votes, shall be declared the permanent Capital of the State of Minnesota.

RESOLVED, That the votes cast as aforesaid shall be returned and canvassed in manner, as votes for delegates to Congress are now canvassed.

RESOLVED, That as soon as the votes aforesaid are canvassed, the Secretary of State shall publish in a paper published at the present seat of Government, the result of said canvass.

Mr. M. E. AMES demanded the yeas and nays.

The yeas and nays were called.

The question was taken and there were yeas 16, nays 20. No quorum voting.

On motion of Mr. BAASEN a call of the Convention was ordered.

The Sergeant-at-Arms was directed to report the absent members in their seats.

On motion of Mr. DAVIS the Committee of Conference were excused from attendance this afternoon.

On motion of Mr. TAYLOR further proceedings under the call were dispensed with.

Mr. TAYLOR moved to adjourn.

Which motion was rejected.

The question recurring on the resolutions and motion of Mr. MURRAY.

Mr. M. E. AMES moved to lay the same upon the table, and the yeas and nays being called for and ordered thereon, there were yeas 17, nays 21, as follows :

YEAS—Messrs. M. E. Ames, Baasen, Curtis, Cantell, Emmett, Flandrau, Jerome, Keegan, Lashelle, McGrorty, McMahan, Norris, Rolette, Sanderson, Sherburne Stacey, Streeter and Vasseur—17.

NAYS—Messrs. A. E. Ames, Armstrong, Butler, Becker, Barrett, Burwell, Bailly, Chase, Davis, Day, Kennedy, Murray, McFetridge, Prince, Sturgis, Swan, Taylor, Tenvoorde, Wait, Warner and Mr. President—21.

So the resolutions were not laid on the table.

The question recurring on referring the said resolutions to the Committee on Miscellaneous subjects, with instructions to report, and the yeas and nays thereon being called for and ordered, there were, yeas 16, nays 22—as follows :

YEAS—Messrs. M. E. Ames, Butler, Becker, Barrett, Curtis, Davis, Emmett, Flandrau, Lashelle, Murray, McGrorty, Norris, Prince, Swan, Taylor, and Mr. President—17.

NAYS—Messrs. A. E. Ames, Armstrong, Burwell, Bailly, Baasen, Cantell, Chase, Jerome, Kennedy, Keegan, McFetridge, McMahan, Rolette, Sanderson, Sherburne, Stacey, Sturgis, Streeter, Tenvoorde, Vasseur, Wait, and Warner—22.

So the resolutions were not ordered to be referred.

Mr. M. E. AMES moved that the resolutions be laid upon the table.

Which motion was not agreed to.

Mr. BAASEN moved that the resolutions be indefinitely postponed.

Which motion was not agreed to.

On motion of Mr. FLANDRAU, the resolutions were referred to the Committee on " Miscellaneous Subjects" without instructions.

On motion of Mr. CHASE, the Convention at half past 3 o'clock adjourned.

THIRTY-THIRD DAY.

THURSDAY, August 20, 1857.

The Convention met at 9 o'clock, A M.

Prayer by the Chaplain.

The Journal of yesterday was read and approved.

On motion of Mr. CHASE, a call of the Convention was ordered.

A quorum having appeared.

On motion of Mr. GORMAN, all further proceedings under the call were dispensed with.

FINAL ADJOURNMENT.

On motion of Mr. GORMAN, the vote by which the Convention agreed to adjourn at one o'clock, P. M. of this day, was reconsidered, and the question recurring on the motion relative to the final adjournment, it was laid on the table.

On motion of Mr. A. E. AMES, the Convention at half-past 9 o'clock, adjourned until half-past 2 o'clock.

AFTERNOON SESSION.

The Convention re-assembled at half-past 2 o'clock.

Mr. BECKER moved that the Convention take a recess for one hour.

The motion was not agreed to.

On motion of Mr. BARRETT, a call of the Convention was ordered, and the Sergeant-at-Arms dispatched after the absentees.

On motion of Mr. A. E. AMES, a quorum having appeared, all further proceedings under the call were dispensed with.

Mr. FLANDRAU from the Committee on Miscellaneous Subjects, made a report which was laid on the table under the rule.

On motion of Mr. MEEKER, the Convention at 3 o'clock, adjourned.

THIRTY-FOURTH DAY.

FRIDAY, August 21, 1857.

The Convention met at 9 o'clock, A. M.

Prayer by the Chaplain.

The Journal of yesterday was read and approved.

On motion of Mr. A. E. AMES, the rule requiring Reports to lie over one day after being printed, was rescinded.

MISCELLANEOUS SUBJECTS.

On motion of Mr. STACEY, the Convention resolved itself into

Committee of the Whole, on the report of the Committee on Miscellaneous Subjects, (Mr. DAVIS in the Chair.)

The following is the report of the Committee :

MISCELLANEOUS SUBJECTS.

SECTION –. All Territorial, District, County and Precinct officers, Civil and Military, holding their offices under the United States or the Territory of Minnesota, shall continue to hold and exercise their respective offices until they shall be superseded by the authority of the State.

SEC. –. All laws in force in this Territory not repugnant to this Constitution shall remain in force until they expire by their own limitation, or be altered or repealed by the Legislature.

SEC. –. All right, actions, prosecutions, judgments, claims and contracts, as well of individuals as of bodies corporate, shall continue as if no change from a Territorial Government had taken place; and all processes issued under the authority of the Territory previous to its becoming a State, shall be as valid as if issued in the name of the State. All fines, penalties or forfeitures accruing to the Territory shall enure to the use of the State. All recognizances taken before the change from a Territorial to a State Government shall remain valid, and pass to, and may be prosecuted in the name of, the State; and all bonds executed to the Territory, or any officer or Court thereof, shall pass to the Governor or appropriate State authorities, and their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly; and all the estate or property, real, personal or mixed, and all judgments, bonds, specialities, choses in action, and claims or debts of whatsoever description, of the Territory of Minnesota, shall enure to and vest in the State of Minnesota, and may be sued for and recovered in the same manner and to the same extent, by the said State, as the same could have been by the said Territory. All criminal prosecutions and penal action which may have arisen or which may arise before the change from a Territorial to a State Government, and which shall then be pending, shall be prosecuted to judgment and execution, in the name of the State. All offenses committed against the laws of the Territory of Minnesota before said change, and which shall not have been prosecuted, may thereafter be prosecuted in the name of the State with like effect as though such change had not taken place, and all penalties incurred shall remain the same as if this Constitution had not been adopted. All actions at law and suits in equity which may then be pending in any of the Courts of the Territory, may be continued and transferred to any Court of the State which shall have jurisdiction of the subject-matter thereof.

SEC. –. The separate property—real, personal and mixed—of married women, which shall belong to them before and at the time of marriage, and which they shall in any manner acquire during coveture, shall, with the rents, issues and profits arising therefrom, forever remain their separate property, subject only to their own control and disposal, and they shall have the power to dispose of the same by gift, grant, bequest or devise; and such property of married women shall never be subject to the debts or liabilities of the husband of any such married woman.

SEC. –. The seat of Government of the State shall be at the City of St. Paul, and the first session of the Legislative Assembly shall be held at the Capitol building in said City: but the Legislature, at said first or any future session, may provide by law for a change of the seat of Government by a vote of the people;

and in the event of the seat of Government being removed from the City of St. Paul to any other place in the State, the Capitol building and grounds shall be dedicated to an institution for the promotion of science, literature and the arts, to be organized by the Legislature of the State, and of which institution the Minnesota Historical Society shall always be a department.

SEC. –. Persons residing on Military Reservations and Indian lands within the State, who shall otherwise possess the requisite qualifications, shall not for that reason be deprived of the right of suffrage or other rights of a citizen.

SEC. –. The Legislature shall provide for a uniform oath or affirmation to be administered at elections, and no person shall be compelled to take any other or different form of oath to entitle him to vote.

SEC. –. There shall be a seal of the State, which shall be kept by the Secretary of the State, and shall be called the Great Seal of the State of Minnesota, and shall be attached to all official acts of the Governor (his signature to acts and resolves of the Legislature excepted) requiring authentication. The Legislature shall provide for an appropriate device and motto for said Seal.

Mr. A. E. AMES moved to strike out the word "State" and insert the words "school fund" in the following section:

All fines, penalties or forfeitures accruing to the Territory shall enure to the use of the State.

Mr. FLANDRAU. I would suggest to the gentleman that this is rather an important matter. If the gentleman wishes to have fines in particular instances go for the benefit of the school fund, it may be well enough, but he surely would not devote all the fines imposed by all the Courts in the Territory to school purposes.

Mr. A. E. AMES. What exception would the gentleman make?

Mr. CURTIS. I would suggest that, for instance, there is the penalty of seven years imprisonment, which the gentleman probably would not think it necessary to include. [Laughter.]

Mr. A. E. AMES. I withdraw the amendment.

Mr. SIBLEY. I wish to ask the Chairman of the Committee one question, or rather to suggest to him a difficulty which has been named to me in regard to this clause, in reference to criminal prosecution. I wish to ask the gentleman if he thinks this provision to enable criminal prosecutions which have arisen under the Territorial Government to be prosecuted under the State Government, is sufficient? I understand that when Wisconsin was admitted, there were one or two capital cases pending which came before the State tribunal, and the question was raised as to the jurisdiction of the State in the matter. Now, sir, there is another clause in our Constitution which says that all criminal indictments shall end "against the peace and dignity of the State of Minnesota." All criminal prosecutions in the Territory are originated in the name of the United States, and I doubt very much whether some more specific phraseology is not necessary to enable a Court, under the State Constitution, to prosecute any such capital or

criminal case arising under the Territorial organization. I understand it was maintained in Wisconsin that there was no such indictment as "against the peace and dignity of the State" would lie when no such State was in existence at the time the offense was committed. I have merely suggested the difficulty for the consideration of the Committee. The Chairman probably knows more about it than I do.

Mr. FLANDRAU. What was the result in the case to which the gentleman has referred?

Mr. SIBLEY. The criminal broke jail before the trial came on, but some legal gentlemen were of the opinion that if the case had been brought to trial, the plea would have been good, and the criminal would have escaped punishment.

Mr. FLANDRAU. I will state that this section is almost a literal transcript from the Constitution of Wisconsin. It seems to me that where the Constitution provides that all indictments shall end "against the peace and dignity of the State," it evidently means all indictments that shall be found under the Constitution, when it becomes a State. It can mean nothing else, because this part of the Constitution makes provision separately for those which have arisen prior to our becoming a State. The only question is whether the language is sufficiently explicit to transfer the prosecutions which may be pending when the State Government goes into operation. But, sir, it seems to me that nothing can be more explicit. The language of the section is:

All criminal prosecutions and penal action which may have arisen, or which may arise, before the change from a Territorial to a State Government, and which shall then be pending, shall be prosecuted to judgment and execution, in the name of the State.

That is, all which have arisen or which may arise; all which have been indicted or which may be indicted. I think the language covers the whole subject. If an offense has been committed during our Territorial existence, and the prisoner has not been indicted, he will be indicted under the forms required in our State Constitution, for the section says:

All offenses committed against the laws of the Territory of Minnesota, before said change, and which shall not have been prosecuted, may thereafter be prosecuted in the name of the State, with like effect, as though such change had not taken place, and all penalties incurred shall remain the same, as if this Constitution had not been adopted.

Mr. MEEKER. There is a class of offenses which may be triable in the United States Courts of the Territory, that really do not seem to have been provided for, which arise under the laws of the United States, and the laws of the Territory of Minnesota.

Mr. FLANDRAU. No change takes place in reference to the United States laws, and I apprehend that indictments for offenses committed under the laws of the United States will come up for trial before the District Court of the United States.

Mr. MEEKER. But it is our business to provide for such cases.

Mr. FLANDRAU. I do not think it is necessary, for the United States Courts will remain.

Mr. MEEKER. As I understand all the Courts in the Territory are to be created *de novo*.

Mr. FLANDRAU. Well, sir, the United States Court to be created, if the gentleman pleases, will be the same Court with the same jurisdiction.

Mr. MEEKER. The gentleman is correct in saying that the laws of the United States will not be affected, and I suppose it will be the business of Congress to provide for cases arising under these laws, and that we have nothing to do with it.

Mr. SIBLEY. The particular point I want to make, and I am not at all satisfied that it is not provided for in the section as reported, is this; an indictment has been found in the United States Court of the Territory for the commission of a capital offense. Now, when it comes up for trial in the State Court, the question is whether that Court, without some provision more specific than is contained in this section, would have the same right to try the cause as if the offense had been committed against the State.

Mr. FLANDRAU. The only difficulty which arises in my mind is this. It may be well to say, that whether these offenses are indicted before or after the change from a Territorial to a State Government, they shall be prosecuted to judgment and execution in the name of the State. It seems to me the idea is that the Court shall amend the indictment so as to make it correspond. This Constitution confers upon the Courts of the State, the right to change it to make it correspond with the jurisdiction which is to try it.

Mr. CURTIS. I will suggest that although this might answer for the prosecution of offenses, there is nothing which secures punishment.

Mr. FLANDRAU. It says, "shall be prosecuted to judgment and execution."

Mr. CURTIS. But still I apprehend that the transfer, without expressly stating that offenses heretofore committed against Territorial Laws, shall be considered as offenses against the State, would give the criminal the advantage of the plea that he had committed no offence against the State Government, if he did not

avail himself of the advantage mentioned by the gentleman from Dakota of breaking Jail, which criminals in this Territory generally do if they desire it.

Mr. STREETER. I would inquire if the language here used, is to apply any further than to cases already commenced under the Laws of the Territory, or whether it covers cases which may come up hereafter under the jurisdiction of the State?

Mr. FLANDRAU. It says, "all criminal prosecutions and penal "action, which may have arisen *or which may arise.*" These words "penal action," refer to offenses committed against the Territory of Minnesota before the change, but which may not have been prosecuted.

Mr. STREETER. The language used will have the effect, as I understand it, merely to cover cases already pending.

Mr. EMMETT. I think that some amendment may be necessary. I think we should first provide for transferring the jurisdiction over indictments for offenses already pending in the Courts, and then we should authorize the Courts of the State to prosecute in the name of the State. I think that prosecutions now pending, ought to be prosecuted to judgment and execution in the same manner as though the Territorial Courts had continued. We ought to authorize the prosecution of all offenses that have not yet been indicted in the name of the State. If there is to be any doubt as to whether the question mentioned by the gentleman from Dakota, in Wisconsin could be raised, I should be in favor of having all offenses not indicted, prosecuted as though the Constitution had not been adopted. There is one thing certain, and that is that unless there be some provision of this kind in the Constitution, authorizing jurisdiction, the adoption of the State Government would act as a general amnesty for all offenses I believe that to be law.

Mr. A. E. AMES. I am very well satisfied that if there be crime committed against the peace and dignity of one political power, when that power ceases to exist, no other political power can assume that the crime was committed against its peace and dignity.

Mr. EMMETT. My opinion is that without Constitutional provision expressly authorizing it, we could not do so. But by continuing these cases to judgment and execution in the same manner as though the change had not taken place, we avoid the difficulty.

Mr. CURTIS. I ask the gentleman if we could so provide in our fundamental law, that the Courts of our own State, should have

the right to try offenses committed against the laws of the State of New York.

Mr. EMMETT. I can only say that perhaps our Courts might try them if authorized under the Constitution, but I doubt very much whether after conviction the execution could be carried out. I say again that I believe that some amendment is necessary to avoid the difficulty which has been raised.

Mr. CURTIS. I would like to ask the gentleman whether, when a criminal has been convicted under the provisions contained in this section, there is any authority under which he could be incarcerated in the State prison?

Mr. FLANDRAU. I think there is. The section provides that the prosecution shall be carried to judgment and execution in like manner as though the change had not taken place. I think the execution of the sentence would involve the confinement of the prisoner in the State Prison, if necessary. However, to remove any possible difficulty that may exist, I move to amend the section so that it will read:

All criminal prosecutions and penal actions which may have arisen or which may arise before the change from a Territorial to a State Government, and which shall then be pending, shall be prosecuted to judgment and execution, in the name of the State. All offenses committed against the laws of the Territory of Minnesota, before the change from a Territorial to a State Government, and which shall not have been prosecuted before such change, may be prosecuted in the name and by the authority, of the State of Minnesota, with like effect, as though such change had not taken place, and all penalties incurred shall remain the same as if this Constitution had not been adopted.

The amendment was agreed to.

Mr. SIBLEY moved to amend the following section by striking out the words "which shall belong," and inserting "belonging":

SEC. The separate property, real, personal and mixed, of married women, which shall belong to them before and at the time of marriage, and which they shall in any manner acquire during coverture, shall, with the rents, issues and profits arising therefrom, forever remain their separate property, subject only to their own control and disposal, and they shall have the power to dispose of the same by gift, grant, bequest, or devise, and such property of married women shall never be subject to the debts or liabilities of the husband of any such married women.

The amendment was agreed to.

Mr. A. E. AMES. I wish to know if this section secures to women who have not been married their property.

Mr. FLANDRAU. I do not think they require any security.

Mr. CURTIS. I would inquire of the gentleman whether "mixed property" refers to offspring? [Laughter.]

Mr. STREETER. I move to strike out the word "mixed" for the

purpose of ascertaining from the Chairman of the Committee to what kind of property it refers.

Mr. FLANDRAU. I refer the gentleman to the Law Dictionary.

The amendment was not agreed to.

Mr. MEEKER. I would suggest to the Committee that the section seems to imply that a married woman is of age, which perhaps is not an unreasonable implication, for it gives her power to convey and transfer her property, if she is married, although she be only 17 years of age.

Mr. M. E. AMES. Well, sir, we are at liberty by the Constitution and the Organic Law, to give to minors the right to hold and to transfer real estate, and I see no reason why married women, though under the age of 21 years should not have that right.

Mr. MEEKER. There is no question of the power, but whether it would not be proper to have some limitation as to the period when she may exercise such a power is a question for us to consider. If she would give the property to her husband, I should be in favor of it.

Mr. EMMETT. I suppose the object of this section is simply to place married women on the same ground in regard to the disposition of their property as those who are single. I do not think the language of the section conveys exactly the idea. Perhaps the Committee on Revision and Phraseology may correct it. I, however, move to strike out in the second line, the word "before and" so that it shall read "the separate property, real, personal and mixed, of married women belonging to them at the time of marriage," &c.

Mr. M. E. AMES. The gentleman from Hennepin (Mr. MEEKER,) seems to think that there should be some limitation. I am entirely willing to oblige my friend, who is a bachelor, and a nice young man, and to leave it to him to say what age shall be fixed. [Laughter.]

Mr. FLANDRAU. The proposition to strike out the words "before and" is certainly a proper one. To secure what belongs to them at the time of marriage is surely all that can be expected. The suggestion of the gentleman from Hennepin about the age of the party, should in my opinion only be applicable to the power to dispose of. She may acquire property if she is under age, but she should not be allowed to dispose of it unless she is of age, except by will. There is, and should be a difference between the disposal of property during life, and the disposal of it by will at death. Many of the States allow parties at eighteen to dispose of their property by will, at time of death, but they are not allowed to dis-

pose of it by grant during life, and there are very obvious reasons for the propriety of that rule.

The amendment was agreed to

Mr. EMMETT moved further to amend the section by striking out the following words: "subject only to their own control and "disposal," and inserting "and may be disposed of by them in the "same manner as though they were unmarried."

Mr. SIBLEY. I am opposed to that amendment for one reason. I think it is a matter of course when a woman is married, that she is of discreet age, and she ought to have the right to dispose of and manage her property as she pleases.

Mr. EMMETT. Does not the gentleman know that very frequently mere children, females, are married without the consent of their parents and guardians? I think they ought to be subject to the same rules and regulations with respect to the disposal of their property as other females under age who do not get married. I believe that the rule fixing a time at which persons shall be disposed to be capable of disposing their property and taking care of themselves, ought to be conformed to, and that it should not be in the power of any class of persons to put themselves without the rule. I think it is doing injustice to us. [Laughter.] I say again, it puts it in the power of a female under age, simply by getting married, to get the entire control and disposal of her property, although she be no more than twelve years old. I think the rule in respect to the age at which minors are allowed to control their property should be conformed to.

Mr. SIBLEY. The gentleman and myself are married men, and can discuss this question calmly. I think he is making an unnecessary distinction. To be sure, a general provision like this may not work well in an occasional case, but, as a general thing, I think when a female is old enough to be married, she is old enough to be able to dispose of her property. I think it is the duty of this Convention rather to offer a premium on marriage than otherwise.

Mr. EMMETT. Would the gentleman allow the same rule to men when they get married?

Mr. SIBLEY. No, sir, I would not, for I do not think they have as much discretion as women. I am opposed to placing any restriction upon marriage rites. Seriously I do not think any distinction of this kind ought to be made. There may be occasional instances like the one mentioned by the gentleman from Ramsey, but they are very rare, and I do not think ought to be specially provided for.

Mr. STREETER. I agree with the gentleman. I think when

you give married women the right to hold real, personal and mixed property, you certainly ought to give them the right to dispose of it.

Mr. EMMETT. We give infants of tender years the right to hold property, but not the right to dispose of it. Now, sir, I say again, in all seriousness—for this is a very serious matter—that when you have fixed the age at which males and females shall be capable of disposing of their property, there is no reason why males should not have the same right as females when they get married. You may as well give to every boy of fifteen who has property in his own right the privilege of disposing of it by getting married. Sir, they should not have the right to dispose of their property until they get to be of a certain age. If they get married I can see no reason why the rule should be departed from. The mere fact of their getting married gives them no more ability to control their property. I think we are going a little further than wisdom or prudence would suggest. When females get married they are under the control of their husbands and there is greater reason than ever why their parents or guardians should have strict watch over their property until they become of sufficient age to manage it for themselves. In all seriousness, I say again, that we should apply the same rule to females and males, and that both sexes should be required to conform to that rule in regard to the disposal and control of their property.

Mr. CURTIS. I am sorry to hear the gentleman speak of marriage as such a serious subject. I believe in the principle advocated by the gentleman from Dakota. I think the discussion which has arisen here, has not arisen in the proper place, nor do I think it is applicable to the subject under consideration. We are not deciding at what age a woman shall get married, or at what age a man shall get married. That subject is left open to legislative enactment. If they decide that a woman shall be marriageable at sixteen and a man at eighteen or twenty-one, they have the power to regulate and control the whole matter. The provision before us is simply that at the time when a woman shall be married she may dispose of her property. I think the provision is reasonable and proper. There is a good deal of force in the suggestion of the gentleman from Dakota, that if a woman is old enough to get married she ought to be able to control her property.

Mr. EMMETT. Suppose she should get married before the age prescribed by law?

Mr. CURTIS. Then it would not be a legal marriage. A woman may marry her brother, or an infant two years old may be married,

but that is not a legal marriage. If they choose to get up some JOE SMITH operation, we cannot help it.

Mr. EMMETT. The gentleman makes a distinction between marriages which are legal and those which are not. Now, sir, if you leave it to the Legislature to say at what age persons may get married, why not leave the whole question to them? For under this provision, if the Legislature fixes the time at which persons are marriageable, it does no more and no less than fix the time when they may dispose of their property. I say, therefore, leave the whole question to the Legislature, and do not provide in the Constitution that whenever persons shall get married they shall have the absolute control of their property. I say that married and single persons should be placed upon the same footing, but that the whole subject had better be left to the Legislature.

Mr. SIBLEY. I think this is a matter of very great importance and ought to be put in proper shape. If the gentleman is right I, of course, am perfectly willing to yield my opinion. I think, however, he is wrong. The gentleman pre-supposes that if the Legislature passes a law fixing the ages of parties sooner than which they shall not contract marriage, that would be very little obstacle in the way of persons getting married. It seems to me it would render the thing entirely impracticable, unless persons authorized to perform the ceremony shall be guilty of a gross violation of law. The gentleman must have learned another thing in his experience, that some women are more capable at the age of 16 of taking care of their own affairs than others are at 21. The mere age is no indication as to the fitness or unfitness of a man or woman to take care of his or her property. It strikes me that when we authorize the performance of the marriage ceremony, then we ought to release the parties from all those restrictions we place them under before they attain their majority. I think that when the law says that a man 17 or 18, or a woman 15 or 16, may contract marriage, it ought to go farther and release them from all the restrictions which may tend to embarrass them in the new course of life which they have adopted. As the Convention has taken the subject up, I hope they will not place any such restriction as is contemplated on individuals who may contract marriage before they attain their majority, and I hope, therefore, the Convention will not adopt the amendment of the gentleman from Ramsey.

Mr. MEEKER. We have heard a good deal of discussion on the subject of marital disabilities, growing out of a proposition to incorporate in the Constitution a very unusual provision. We see it sometimes in the laws of the States; rarely ever in the Constitu-

tio ns. It may, perhaps, be found in one of the more modern ones, but I do not recollect any instance. Wherever we find any provision on the subject on the statute book, it is for the protection and happiness of married women; it is to secure them from ruin, from the profligacy, prodigality and extravagance of their husbands. Now, sir, that being the object of the law, and as there seems to be a disposition in this body to incorporate some provision on the subject in the Constitution, I want it to be adopted in such shape as will give to married women the greatest security possible. I do not think, as a rule, a girl at 16 has any more discretion than a boy of the same age. The security contemplated by this provision will chiefly be to those who have property of their own. That class of young ladies are sought for with the greatest perseverance, and the effect of this provision will be to increase that perseverance on the part of suitors to marry them as soon as possible, before they have judgment enough to manage their own affairs, for the purpose of getting control of their property by transfer or otherwise. I am surprised to see men of much experience, and married men, take the position which they have taken on this question.

Mr. MURRAY. I would like to ask the gentleman if he is a married man?

Mr. MEEKER. It is because I am not a married man that I can view these matters with perfect impartiality, [laughter,] and look only at the correct and proper policy to be adopted. I hope the amendment of the gentleman from Ramsey will prevail.

Mr. SIBLEY. I have a proviso which I think will obviate all difficulties. As to the gentleman from Hennepin, I consider him as no authority at all upon this subject. He is talking of what he knows nothing about. [Laughter.] I propose to add at the end of the Section—

PROVIDED, The benefits of this Section shall not enure to women under the age of eighteen, who shall have contracted marriage without the consent of their parents or guardians.

Mr. EMMETT. That is perfectly satisfactory to me, and I withdraw my amendment.

The amendment was agreed to.

Mr. STURGIS moved to strike out all after the word "State" in the following Section:

SEC. Persons residing on Military Reservations or Indian lands, within the State, who shall otherwise possess the requisite qualifications, shall not for that reason be deprived of the right of suffrage or other rights of a citizen.

and to insert in lieu thereof the following:

Shall enjoy the same rights and privileges as though they lived in any other portion of the State, and shall be subject to taxation, and held in all respects amenable to the laws of the State.

Mr. FLANDRAU. I will state to the gentleman that he should not strike out this clause requiring persons to possess the requisite qualifications, because it may be construed to include soldiers and other persons residing on these reservations, who ought not to have the right of suffrage. The object of the Section is, that settlers, mechanics, and others, from the mere fact of living on a Military or Indian Reservation, shall not be deprived of the rights and privileges of citizens.

Mr. SIBLEY. I propose to put in at the end this proviso:

PROVIDED, That such persons shall have paid taxes equally with other citizens.

Mr. FLANDRAU. The practical operation of the residence of of these persons on our reservations is this: Here is Mr. MERRICK, for instance, who is an Indian trader owns a large amount of property all over the whole Territory; he owns a store full of goods in the Indian country, and the Indian country may be his residence; now because he does not pay taxes on the small amount of property located on the reservation, is he to be deprived of his vote?

Mr. SIBLEY. Before the question is taken, I wish simply to state my object in offering the amendment. I have lived on a Military Reservation for years. I have always paid taxes. The men living about me have paid their taxes invariably. Now sir, this does not bring up the question whether we can compel men living on Military Reservations to pay taxes; it simply puts them on an equal footing with other citizens. It is simply saying that if they pay taxes the same as other persons, they shall have the same rights.

Mr. MEEKER. A great many citizens in the Territory are entitled to vote, as the laws now are, before they have ever paid any taxes. When a man has resided in the Territory six months, he may vote whether he has paid taxes or not.

Mr. SIBLEY. This puts them on the same footing. If other citizens have not paid taxes, then they need not pay.

Mr. FLANDRAU. I do not like to see any such property qualification or any such restriction thrown around the right of suffrage. It does not look well. It is a matter of such small importance whether persons on Military Reservations pay taxes or not, that I think we ought not to notice it.

Mr. TUTTLE moved to strike the section out.

The motion was not agreed to.

Mr. SIBLEY withdrew his amendment to the amendment.

Mr. EMMETT. I renew the gentleman's amendment, and I say

to the gentleman from Nicollet, that persons who are not taxed and cannot be taxed upon the property they may have, although it may amount to hundreds of thousands of dollars, ought not to have the privilege of voting.

Mr. FLANDRAU. I admit the force of the gentleman's argument in relation to this question of taxation, if his statement were true; but sir, you can only acquire within a Reserve a small amount of personal property. No person could acquire property there to the amount of hundreds and thousands of dollars, and, therefore, I said that I did not think it was a matter of sufficient importance to make any provision on the subject.

The amendment to the amendment was not agreed to.

The amendment was then agreed to.

Mr. M. E. AMES. For the purpose of taking the sense of the Committee upon the subject and for the reason that I consider the section under consideration, which we have just amended, entirely unnecessary, as much so as the fifth wheel of a coach, I move to strike out the section. It is a matter peculiarly for the action of the Legislature, and as it now stands, I believe it is in direct conflict with the Article we have adopted regulating and prescribing the qualifications of electors. While I am up, I will merely state in reference to the matter of Military and Indian Reservations, that I believe the United States have entire jurisdiction. I contend that the State has no authority over them. I, therefore, hope the section will be stricken out.

The motion was not agreed to.

Mr. M. E. AMES. I move to strike out the words " Military Res- " ervations or."

The motion was agreed to.

On motion of Mr. CURTIS, the following additional section was adopted:

SECTION —. The Territorial Prison, located under existing laws, shall, after the adoption of this Constitution, be, and remain one of the State Prisons of the State of Minnesota.

On motion of Mr. A. E. AMES, the following additional Section was adopted:

SECTION—. The Legislative Assembly may provide Houses of Refuge for the correction and reformation of juvenile offenders, for the support of institutions for the education of the deaf, dumb and blind and also for the treatment of the insane.

On motion of Mr. STURGIS, the Committee rose and reported back the Article te the Convention with amendments.

Said amendments were concurred in in gross.

QUESTION OF PRIVILEGE

Mr. SETZER. I rise to a question of privilege. I had supposed that I was no longer a member of the Convention. Yesterday, however, I was arrested by the Sergeant-at-Arms and brought to the door of the Convention. I am perfectly willing to submit to the decision of the Convention, and as I occupy rather an anomalous position, I wish to be set right. I do not consider that I am a member.

The PRESIDENT. The Chair believes that the gentleman is recognized as a member of the Convention, and will so consider him.

On motion of Mr. BECKER, the Convention adjourned until half-past two o'clock, P. M.

AFTERNOON SESSION.

The Convention met at half past two o'clock.

MISCELLANEOUS SUBJECTS.

Mr. SETZER moved a re-consideration of the vote by which the amendments of the Committee of the Whole to the report of the Committee on Miscellaneous Subjects were adopted in gross.

The motion was not agreed to.

Mr. SETZER. I move to amend Section four, by adding thereto the following: "But the husband shall, in no case, be liable for the "debts of the wife."

In offering this amendment, I ask for but simple justice. This Constitution has in it a provision, which never should have been in any Constitution, exempting the wife from all liabilities for debts contracted by her husband. Now sir, if this provision is to remain, we might as well separate them entirely. Let us give the husband the same right to be exempt from liability for any debts contracted by the wife. It is unjust and unfair to exempt the wife from liability and then give her power to ruin the husband by the debts she may contract.

Mr. STACEY. I move to amend the amendment by adding thereto the words, " contracted previous to marriage."

The amendment to the amendment was agreed to.

Mr. EMMETT moved to further amend by adding the following:

Until after the separate property of the wife shall be first exhausted.

Mr. SETZER. It is very easy to see what legislation in the Constitution leads to. By the common law system, the property

of the wife belongs to the husband, and I believe the principle is a correct one. By such legislation as you have incorporated into this Section you separate interests which should be a unity and you give away rights which never should exist.

The amendment to the amendment was not agreed to.

Mr. FLANDRAU offered the following as a substitute for Section four:

SEC. 4. The Legislature may provide by law, that the separate property of married women shall be exempted from the debts and liabilities of the husband.

Mr. CURTIS. I hope the amendment will not be adopted at a substitute. I believe it has been the deliberate expression of the sentiment of this Convention that these are rights which married women have. The objection of the gentleman from Washington that it is legislation, will apply with the same force to every Article which has been acted upon in this body. There is no law which is not legislation. Our fundamental laws are legislation and I believe that the rights of married women as to the enjoyment and disposal of their property while they are in a state of coverture is a proper subject for insertion in the fundamental law of the State. I hope the substitute will not be adopted.

The motion was not adopted.

Mr. TAYLOR demanded the yeas and nays, which were ordered, and the question being taken, resulted yeas 15, nays 22, as follows:

YEAS—Messrs. Butler, Baasen, Chase, Emmett, Faber, Jerome, Kennedy, Meeker, McMahan, Norris, Rolette, Setzer, Swan, Taylor and Vasseur—15.

NAYS—Messrs. A. E. Ames, Barrett, Burns, Burwell, Curtis, Davis, Day, Flandrau, Gilman, Keegan, Leonard, Lashelle, Murray, McFetridge, Sanderson, Stacey, Shepley, Sturgis, Streeter, Tuttle, Wait and Mr. President—22.

So the motion to strike out was decided in the negative.

Mr. EMMETT offered the following as a substitute for Section four:

SEC. 4. The property of Married Women, which they may have at the time of marriage, or may acquire during coverture, together with the rents, issues and profits arising therefrom, shall be subject to their exclusive control, and may be disposed of by them in the same manner as though they were unmarried; and shall be subject to all debts contracted by them before marriage, but shall never be liable to the debts of the husband.

The substitute was adopted.

The Article as amended was then ordered to be engrossed.

INSTRUCTION TO JOINT COMMITTEE.

Mr. WAIT offered the following resolution:

RESOLVED, That the Committee appointed by the President of the Constitutional Convention to confer with a Committee from the body occupying the east

end of the Capitol, be instructed to report the result of their conference to this Convention at one o'clock, P. M.

Mr. MURRAY. I do not think we ought to give the Committee any instructions as to the time they shall report. I move to lay the resolution on the table.

The motion was not agreed to.

Mr. FLANDRAU moved to refer the resolution to the Committee on Miscellaneous Subjects.

The motion was not agreed to.

Mr. CURTIS moved to refer the resolution to the Committee of Conference.

The motion was not agreed to.

Mr. ROLETTE moved that the Convention adjourn until Monday next.

The motion was not agreed to.

The resolution was then adopted.

FINAL ADJOURNMENT.

Mr. DAVIS offered the following resolution :

RESOLVED, That this Convention do adjourn, *sine die*, at four o'clock, P. M. to-morrow.

After some debate relative to the condition of the business of the Convention, the resolution was rejected.

BOUNDARY.

Mr. FLANDRAU from the Committee to whom was referred the resolution authorizing the boundary line to be submitted to the people for their vote, reported the same back to the Convention without suggestion or amendment.

Mr. F. moved the adoption of the resolution.

Mr. MEEKER moved that the Convention adjourn.

The motion was not agreed to.

Mr. BROWN. I should like to see that resolution amended in one or two particulars, and I should like to give my reasons for my vote upon it, but sir, I do not like to take up the time of the Convention at present, and therefore I move that the resolution be laid upon the table.

The motion was agreed to.

On motion of Mr. FLANDRAU, at a quarter past three, the Convention adjourned.

THIRTY-FIFTH DAY.

SATURDAY, August 22, 1857.

The Convention met at 9 o'clock, A. M.

The Journal of yesterday was read and approved.

REVISION AND PHRASEOLOGY.

Mr. MEEKER stated that the Committee on Phraseology and Revision, had completed their report with the exception of the Schedule and the Article on Miscellaneous Subjects. No other member of the Committee was present, but for the purpose of expediting business, he proposed that the report be received so far as the Committee had gone and acted upon by the Convention. The whole Constitution had to be enrolled on parchment, and he thought the report should be acted on and allow the work of enrolling to proceed.

Mr. GILMAN objected to the reception of the report. Nothing would be gained by it. The Constitution should be all gone over again carefully, after the Committee on Revision had finished their work.

Mr. CURTIS said the Committee of Conference, he understood, were making extensive alterations in the body of the Constitution, and when the report of that Committee came in, the work would all have to be gone over again. It would be useless to commence enrolling the Constitution, until the report of that Committee had been received.

The report was received and laid on the table.

APPORTIONMENT.

Mr. BROWN from the Committee on the Apportionment and Schedule, made a report, which was laid on the table.

Mr. CHASE said that the Committee on Revision and Phraseology, had not prepared their report in a shape in which it could be acted on by the Convention. He moved to reconsider the vote by which the report was received.

The motion to reconsider was agreed to, and the question recurred on the motion that the report be received.

Mr. MEEKER then, by unanimous consent, withdrew the report.

On motion of Mr. BARRETT, the Convention took a recess for one hour.

After which the report of the Committee on Conference was received, and laid on the table without reading.

On motion of Mr. ROLETTE, the Convention then at half-past ten o'clock, adjourned.

THIRTY-SIXTH DAY.

MONDAY, August 24, 185 .

The Convention met at 9 o'clock, A. M.

Prayer by the Chaplain.

The Journal of Saturday was read and approved.

On motion of Mr. SETZER, the Convention adjourned until half-past two o'clock.

AFTERNOON SESSION.

The Convention met at half-past two o'clock.

INDIAN AFFAIRS.

Mr. GILMAN, by unanimous consent, introduced the following resolution:

RESOLVED, That the Secretary of this Convention be requested to obtain from the Superintendent of Indian Affairs an exhibit of the amount of Indian lands within the limits of the proposed State, the number of Indians therein, together with the amount of the annuities paid to them, and report the same to this Convention.

Mr. BAASEN enquired the object of the resolution,

Mr. GILMAN replied that he desired to know what quantity of Indian Lands have to be included within the State, and the condition of the Indian Affairs.

The resolution was adopted.

PHRASEOLOGY AND REVISION.

Mr. M. E. AMES asked permission to introduce the following resolution:

RESOLVED, That the Committee on Phraseology and Revision is hereby requested to report such Articles back to the Convention as they have considered, to-morrow morning.

Mr. M. said his object was to bring the Article on Judiciary again before the Convention, for the purpose of offering an amendment which the Convention certainly would adopt.

M. SETZER objected, on the ground that the Article referred to was before the Committee of Conference.

Mr. CHASE replied that the Committee on Revision and Phraseology had the Article before them.

Mr. SETZER said the whole Constitution had been referred to the Committee of Conference, and as he understood, they were making important alterations. If it had not been referred to them, they should be called to account for the changes they were making.

Mr. CURTIS thought that whether the Constitution had been referred to the Committee or not, if the Convention wished to make modifications in it, now was the time to do it.

Mr. M. E. AMES moved to suspend the rules to enable him to introduce the resolution, which motion was disagreed to.

Mr. MURRAY moved to adjourn, which motion was disagreed to.

On motion of Mr. BAASEN a call of the Convention was ordered, and the Sergeant at-Arms dispatched after the absentees.

On motion of Mr. STACEY all further proceedings under the call were dispensed with.

Mr. MURRAY moved that the Convention adjourn, which motion was disagreed to.

Mr. A. E. AMES moved to take a recess for half an hour, which motion was disagreed to.

Mr. CURTIS moved to take a recess for fifteen minutes, which motion was disagreed to.

Mr. MURRAY moved to take a recess for five minutes, which motion was disagreed to.

Mr. MEEKER moved to adjourn, which motion was disagreed to.

Mr. BARRETT moved to take a recess for forty minutes, which motion was disagreed to.

Mr. TAYLOR moved to adjourn, which motion was disagreed to.

Mr. WAIT moved to take a recess for twenty six and a half minutes, which motion was disagreed to.

Mr. GILMAN moved that the Convention adjourn, which motion was disagreed to.

On motion of Mr. GORMAN the Convention took a recess for ten minutes, after which

On motion of Mr. GILMAN, the following resolution was adopted:

RESOLVED, That the Committee of Conference, appointed by this body, be instructed to make their final report to this Convention as early as possible to-morrow.

On motion of Mr. STREETER, the Convention at four o'clock adjourned.

THIRTY-SEVENTH DAY.

TUESDAY, August 25, 1857

The Convention met at 9 o'clock, A. M.

Prayer by the Chaplain.

The Journal of yesterday was read and approved.

REVISION AND PHRASEOLOGY.

Mr. CHASE, from the Committee on Phraseology and Revision, presented the following Report:—

The Committee on Phraseology and Revision have had under consideration the different Articles of the Constitution, and report the same back to the Convention with some verbal corrections.

Your Committee recommend the following classification and arrangement of the different Articles of the Constitution:

PREAMBLE.

Article I.—NAME AND BOUNDARIES.

Article II.—BILL OF RIGHTS.

Article III.—DISTRIBUTION OF THE POWERS OF GOVERNMENT.

Article IV.—LEGISLATIVE DEPARTMENT.

Article V.—EXECUTIVE DEPARTMENT.

Article VI.—JUDICIARY.

Article VII.—THE ELECTIVE FRANCHISE.

Article VIII.—SCHOOL FUNDS, EDUCATION AND SCIENCE.

Article IX.—FINANCES OF THE STATE, BANKS AND BANKING.

Article X.—CORPORATIONS HAVING NO BANKING PRIVILEGES.

Article XI.—COUNTIES AND TOWNSHIPS.

Article XII.—THE MILITIA.

Article XIII.—IMPEACHMENTS AND REMOVALS FROM OFFICE.

Article XIV.—THE ACCEPTANCE OF THE PROVISIONS OF CONGRESS.

Article XV.—MISCELLANEOUS PROVISIONS.

Article XVI.—SCHEDULE.

All of which is respectfully submitted.

C. L. CHASE, Chairman,
B. B. MEEKER,
W. R. MCMAHAN.

The Report was accepted and the recommendations of the same were adopted.

SCHEDULE.

On motion of Mr. MURRAY, the Convention resolved itself into Committee of the Whole, (Mr. MURRAY in the Chair), and proceeded to the consideration of the Report of the Committee on the Schedule.

The following is the report of the Committee:—

SCHEDULE OF THE FIRST ELECTION UNDER THIS CONSTITUTION.

SECTION 1. For the purposes of the first election, the State shall constitute one District, for the election of members to the House of Representatives of the United States.

SEC. 2. There shall be elected, at the said first election, three members of the House of Representatives of the United States, and if, after the enumeration of the population shall be made, it shall be ascertained that under that enumeration but two members can be admitted to seats, then the two persons who shall have received the highest number of votes shall be deemed to be elected.

SEC. 3. For the purposes of the first election for members of the State Senate and House of Representatives, the State shall be divided into Senatorial and Representative Districts, as follows, to wit:

1st District, Washington County; 2d District, Ramsey County; 3d District, Dakota County; 4th District, so much of Hennepin County as is west of the Mississippi; 5th District, Rice County; 6th District, Goodhue County; 7th District, Scott County; 8th District, Olmsted County; 9th District, Fillmore County; 10th District, Houston County; 11th District, Winona County; 12th District, Wabashaw County; 13th District, Mower and Dodge Counties; 14th District, Freeborn and Faribault Counties; 15th District, Steele and Waseca Counties; 16th, Blue Earth and Le Sueur Counties; 17th, Nicollet and Brown; 18th, Sibley, Renville and Mc Leod; 19th, Carver and Wright; 20th, Benton, Stearns and Meeker; 21st, Morrison, Crow Wing and Mille Lac; 22d, Cass, Pembina and Tod Counties; 23d, Sherburne, Anoka and Manomin Counties; 24th, Chisago, Pine and Isanti Counties; 25th, so much of Hennepin County as lies east of the Mississippi; 26th, Buchanan, Carlton, St. Louis, Lake and Itasca Counties.

SEC. 4. The Counties of Brown, Stearns, Todd, Cass, Pembina and Renville, as applied in the preceding section, shall not be deemed to include any territory west of the State line, but shall be deemed to include all counties and parts of counties east of said line as were created out of the territory of either, at the late session of the Legislature.

SEC. 5. The Senators and Representatives, at the first election, shall be apportioned among the several Senatorial and Representative Districts, as follows, to wit:

1st	District.....	2	Senators.....	3	Representatives.
2d	"	3	"	6	"
3d	"	2	"	5	"
4th	"	2	"	4	"
5th	"	2	"	3	"
6th	"	1	"	4	"
7th	"	1	"	3	"
8th	"	2	"	4	"
9th	"	2	"	6	"
10th	"	2	"	3	"
11th	"	2	"	4	"
12th	"	1	"	4	"
13th	"	2	"	3	"
14th	"	1	"	3	"
15th	"	1	"	3	"
16th	"	1	"	3	"
17th	"	1	"	3	"
18th	"	1	"	3	"
19th	"	1	"	3	"
20th	"	1	"	3	"
21st	"	1	"	1	"
22d	"	1	"	1	"

23d	District.....	1	Senator	1	Representative.
24th	"	1	"	1	"
25th	"	1	"	2	"
26th	"	1	"	1	"
		37		80	

SEC. 6. The returns from the 22d District shall be made to and canvassed by the Judges of Election at the Precinct of Otter Tail City.

SEC. 7. It shall be the duty of the Governor of the Territory, as soon as practicable after the adjournment of the Constitutional Convention, to issue his Proclamation designating the day upon which an election shall be held for members of the House of Representatives of the United States, Governor, Lieutenant Governor, Supreme Judges, and other State and District officers provided for in this Constitution, members of the Senate and House of Representatives of the State, and all county and precinct officers authorized by law to be elected at the next general election, and also for the submission of this Constitution to the people for their adoption or rejection.

SEC. 8. Upon the day so designated by the Governor, as aforesaid, elections may be held at the several precincts within said State for members of the United States House of Representatives, for members of the two Houses of the Legislature, and for the election of all State, District, County and Precinct officers within the State, and at such election every free white male inhabitant over the age of twenty-one years, who shall have resided within the limits of the State for ten days previous to the day of said election, may vote for all the officers to be elected at such election, and also for or against the adoption of the Constitution.

SEC. 9. In voting for or against the adoption of the Constitution, the words "For Constitution, yes;" or "For Constitution, no," may be written or printed on the ticket of each voter; but no voter shall vote for or against the Constitution on a separate ballot from that cast by him for officers to be elected at said election.

SEC. 10. At said election the polls shall be opened, the election held, returns made and certificates issued in all respects as provided by law for opening, closing and conducting Elections and making returns of the same, except as herein before specified, and excepting, also, that polls may be opened and elections held at any point or points in any of the Counties not less than ten miles from the place of voting, in any established precinct where there may be five or more voters, although precincts may not have been regularly established at such point or points, and the polls shall be opened, elections held, and returns made in the same manner as from established precincts.

SEC 11. It shall be the duty of the Judges and Clerks of Election, in addition to the returns required by law from each precinct, to forward to the Secretary of the Territory by mail immediately after the close of the election, a certified copy of the poll book, containing the name of each person who has voted in the precinct, and the number of votes polled for each person for any office, and the votes polled for and against the adoption of the Constitution.

SEC. 12. The returns of said election for all State officers and members of the House of Representatives of the United States, shall be made, canvassed and certificates issued in the manner now prescribed by law for returning and canvassing votes given for Delegate to Congress, and the returns for all District officers, Judicial, Legislative or otherwise, shall be made to the Register of

Deeds of the senior County in each District, in the manner prescribed by law, except as herein otherwise provided.

SEC. 13. As there has been a body of men, a majority of whom were elected members of the Constitutional Convention, who have acted separately and apart from the Constitutional Convention, and who have formed a Constitution to be submitted for the adoption of the people of the State of Minnesota, it shall be lawful for the voters, as provided in this Article, to vote for or against either Constitution so submitted, and the voting shall be as follows, viz: Each voter favorable to the adoption of this Constitution shall vote "Democratic Constitution, yes," and "Republican Constitution, no," and each voter opposed to this, and in favor of the adoption of the other Constitution, shall vote "Republican Constitution, yes," and "Democratic Constitution, no," and every voter opposed to the adoption of either Constitution shall vote "Democratic Constitution, no," and "Republican Constitution, no," and if upon the canvass of the votes so polled it shall appear that there was a greater number of votes polled for either or both of said Constitutions than was polled against such Constitutions, then the Constitution having received the highest number of votes over and above the votes polled against the same, shall be deemed to be adopted as the Constitution of the State of Minnesota, and all the provisions and obligations thereof shall thereafter be valid to all intents and purposes as the Constitution of the State, in the same manner and to the same extent in all respects as if but one Constitution had been framed and submitted to the people for ratification; and thereafter the Constitution receiving the lowest number of votes polled against it shall be of no force, and no provision or part thereof shall have validity or be recognized as binding in any manner whatever.

SEC. 14. If upon canvassing the votes for and against the adoption of the Constitutions it shall appear that there has been polled a greater number of votes against than for either, then no certificates of election shall be issued for any State or District officer provided for in either of said Constitutions, and no State organization shall have validity within the limits of the Territory until otherwise provided for, and until a Constitution for a State Government shall have been adopted by the people.

SEC. 15. At the first election, the Judicial Districts of the State shall be composed as follows, subject to be modified by the Legislature:

The Counties of Ramsey, Hennepin, Manomin and Anoka shall comprise the first Judicial District.

The Counties of Carver, Sibley, Renville, Nicollet, Le Sueur, Scott, Dakota, Blue Earth, Steele, Faribault, Freeborn, and so much of Brown County as originally established as lies east of the line designated as the line of the State, shall comprise the Second Judicial District.

The Counties of Goodhue, Wabashaw, Dodge, Olmsted, Winona, Mower, Rice, Fillmore and Houston, shall comprise the Third Judicial District.

The Counties of Washington, Chisago, Lake, St. Louis, Itasca, Crow Wing, Pine, Isanti, Mille Lac and Buchanan, shall comprise the Fourth Judicial District.

All the State not included in the other Districts shall comprise the Fifth Judicial District

Mr. WARNER. I do not think this report as printed is precisely that which was agreed upon.

Mr. SETZER. I think there must be some mistake. I move that the Committee rise, report progress, and ask leave to sit again.

The motion was agreed to, and accordingly the Committee rose, reported progress, and obtained leave to sit again.

REVISION AND PHRASEOLOGY.

On motion of Mr. SETZER, the Convention resolved itself into Committee of the Whole, on the report of the Committee on Phraseology and Revision, (Mr. BECKER in the Chair.)

The CHAIR decided that the report of the Committee on Phraseology brought before the Convention the entire Constitution so far as adopted.

Mr. MEEKER. I move to amend Section 2 of the Article on Name and Boundaries, by inserting before the word "waters," in the 5th line, the word "navigable," so as to make it read "and "said river and navigable waters leading into the same shall be "common highways and for ever free."

As it now reads this section would make all streams, whether navigable or not, which may be the private property of individuals, public highways, and for ever free. By the insertion of the word "navigable" before "waters," I propose to make only such streams as are navigable public highways free to the inhabitants of the State and citizens of the United States.

Mr. SETZER. I wish to inquire of the gentleman what the term "navigable" means—navigable for vessels, steamboats, bateaux or logs? The constituents whom I represent are somewhat interested in the phraseology of this section. There are very small streams which are navigable for logs, and in fact hardly any which are not.

Mr. MEEKER. The gentleman asks the definition of the term navigable. The term, as I understand it, has reference to streams which are useful in the transportation of trade and commerce—navigable for boats. The gentleman knows what is the ordinary acceptation of the term, and if he expects us to declare public highways, all the little brooks and rivulets of the country for the sake of the lumbermen or anybody else, he will find that, in the first place, we have no power to do it. It is an infringement of the Constitution of the United States. It is taking private property for public use without compensation or reward. I have never heard of such thing in my life. And if we had the power, the exercise of it would bring a serious calamity upon this Territory. If all the little creeks and rivulets of the Territory are to be declared public highways, it will not be in the power of any person to put up a grist mill or to make any improvement whatever on the streams running through his lands. The term "navigable waters," has in

every State been made to apply only to those large streams which are really navigable in the ordinary acceptation of the term.

Mr. SETZER. Without going further into the argument with the gentleman in respect to small and large streams, I will state that the expression used is copied literally from the Enabling Act of Congress, the 2d section of which is as follows:

SEC. 2. *And be it further enacted*, That the State of Minnesota shall have concurrent jurisdiction on the Mississippi and all other rivers and waters bordering on the said State of Minnesota, so far as the same shall form a common boundary to said State, and any State or States now, or hereafter to be formed or bounded by the same; and said river and waters leading into the same, shall be common highways, and forever free, as well to the inhabitants of said State as to all other citizens of the United States, without any tax, duty, impost or toll therefor.

Mr. SIBLEY moved that the section under consideration be passed over informally.

Mr. EMMETT. I feel disposed to urge that motion because whatever may be the language of the Enabling Act, I cannot see that it makes any difference as to the rights of those who have heretofore purchased lands. Congress may pass an act in the language just read by the gentleman from Washington, applying to subsequent grants of the United States, but I contend that no Act of Congress can affect the rights of the persons who have purchased their lands heretofore. It is very important that the subject should be carefully considered. If there is not some way of protecting the interests of the lumbermen which can be suggested, without making all these little streams public highways, I hope the subject will be passed over until we have had time to consider it.

Mr. MEEKER. So far as grants of land have been made to individuals by the United States government, including streams which have not been meandered, the rights of those individuals cannot be interfered with by any act of ours declaring the streams navigable. Those rights are secured by the Constitution of the United States and the only effect that this amendment can have will be upon grants which may be made hereafter.

Mr. SETZER. I am astonished to find that any gentleman in this Convention representing a lumbering community should take the ground which the gentleman takes. Some of the most important streams in the Territory have not been meandered. Rum River was not meandered, simply because it was too much trouble for the surveyors. They went to the settlers and got their assent that it should not be meandered. If the provision which the gentleman from Hennepin proposes, should be adopted, it would give any person owning lands on that river the right to construct a

boom across it and levy toll upon the lumbermen for all the logs which were floated down.

Mr. M. E. AMES. I hope the motion to pass over will not prevail because there is not a show of necessity for it. I am in favor of adopting the amendment offered by the gentleman from Hennepin, for these reasons: in the first place, a large portion or a considerable portion of the lands lying upon streams which have not been meandered have already passed into the ownership of private persons.

Mr. SETZER. Only a very small portion have passed into the hands of private persons.

Mr. M. E. AMES. Well, some portion. Then so far as any provision may be incorporated into this Constitution or any enactment by the Legislature of the future State is concerned, it cannot in any way affect the right of any person holding property upon a stream which has not been meandered. It is their private property and no Constitutional Convention or Legislature can interfere with it. Any such interference would be clearly in violation of the Constitution of the United States, as well as of the Ordinance of 1787.

The motion to pass over was not agreed to.

Mr. A. E. AMES moved to amend the amendment in line five, Section two, by erasing the letter "s" from the word "rivers," and insert after the word "waters," the words "and the navigable waters."

Which proposition was accepted by Mr. MEEKER, and the amendment was carried.

Mr. EMMETT moved to amend by adding the following section:

"The Legislature may also from time to time on such terms as may be just, declare any stream or streams used in the transportation of lumber to be common highways for lumbering purposes.."

Mr. SIBLEY. I hope the amendmeut will prevail. Now, sir, if we go on and declare that all these streams shall be public highways, we shall have difficulty in determining what shall be the constructive power to the clause. According to the common meaning of the term, as has I believe been legally decided, the word "navgable" has reference to streams which will admit vessels of a particular size; I think those of twenty tons burden. If you adopt the Section as it stands, it will produce difficulty in our future legislation. I hope, therefore, the amendment will be adopted. We all know that the lumbering interests constitute a very important, overshadowing branch of business in our Territory and I hope that every proper means will be taken to prevent injustice being done

to the class of men who are carrying on that business. I was in hopes the subject would be passed over for future consideration, but inasmuch as the Committee have refused to postpone it, I think the amendment offered by the gentleman from Ramsey is a very proper one and ought to be adoptad.

Mr. M. E. AMES. The gentleman says he thinks this amendment is indispensably necessary for the protection of the rights of the lumbermen. Now, sir, I am as much in favor of the protection of these rights as the gentleman, but if the gentleman will read the ordinance of 1787, applying to the great North Western Territory, he will find that only the navigable streams—that is according to legal construction, navigable for boats of twenty tons burden, are made public highways. These streams are made navigable not only by act of Congress, but by the law of Nations, and no Legislature can interfere with them or restrict the right of the carrying trade upon them. So far then, the rights of the lumbermen are protected. But, sir, the application of this amendment would be to streams which are not navigable and which have not been meandered. I ask the gentleman if it is within the power of this Convention or of the future State of Minnesota, to grant the right of way for lumbering purposes or for any other purposes over all the little streams of the Territory. It is true, the Legislature has power to grant the right of way for the construction of roads through the lands of private individuals, but not without paying compensation for the right. I assume it as an undeniable proposition that those streams and rivulets which are not navigable stand upon the same footing exactly as the land adjoining, and the Legislature have the same power and right exactly to lay out roads through private lands for the benefit of lumbermen, without compensation to the owners, and declare them public highways as to declare that those little streams shall be public highways.

Mr. MEEKER. Before offering an amendment to that which is now under consideration, I beg here to make one or two remarks. It seems to me that we are acting with precipitate and also with indecent haste in pressing final action upon so important a provision of the Constitution as the one now under consideration. What I desire is that this portion of the Constitution shall conform to the meaning and sense of the Enabling Act under which we are proceeding. I do not think there is much to be gained by this over zeal in pressing the claims of a particular class of citizens of Minnesota in this body. I do not think we ought to secure the interests of one class of citizens, however meritorious, by infringing

upon the rights of an equally meritorious class of citizens. I move to amend the amendment by adding thereto the following:

"PROVIDED, That Reparian proprietors shall be recompensed for any damages that may arise from such appropriations of private streams."

Mr. STURGIS. I wish to make a few remarks in regard to the principle of protecting the logging interests of this Territory. It is generally well known that a large portion of the pine logs which have been heretofore cut in our Territory have been cut by transient men, who have little or no interest in the welfare of our country, and run to St. Louis and other points out of this Territory;—and what are the consequences? Sir, there have been thousands of acres of our valuable timbered lands stripped and made worthless—the loss of which will soon be realized. Now, if we are making a Constitution for the people of St. Louis, Illinois, Iowa and Wisconsin, then let us make such provisions as will effect that object. The lumbermen should have their rights; but I do not wish to see any provision conferring exclusive privileges upon any class of men which will retard the improvement and prosperity of the country. The Northern part of this Territory,—a portion of which I represent,—is a timbered country, furnishing a large amount of pine timber and good water-power. Mill owners should have their rights protected as well as loggers. What will advance the improvement of our country so much as the introduction of mills? I contend that there should be some protection to those who invest their money in erecting mills, and that they should not be left to the mercy of the barbarian if he should pass that way. We want more mills and more machinery and facilities for manufacturing. Nothing will advance the interests of the loggers so much as to have a home market for their logs, instead of having to raft them into the Mississippi and letting them run wild, without getting returns of one-half, as has heretofore been the case. These are facts; and I cannot see how gentlemen on this floor can advocate the principle of making every stream and rivulet, it matters not how small, public highways, unless it is for the sole purpose of draining our country of everything that makes it valuable, and rendering our water-power and mills valueless.

The amendment to the amendment was disagreed to.

After further debate, it was ascertained that the entire misapprehension in reference to the Section had arisen in consequence of the omission in the Enabling Act, as printed, of the words: "and the navigable waters"; and the Section was, therefore, amended so as to correspond with the Enabling Act, as follows:

SEC. 2. The State of Minnesota shall have concurrent jurisdiction on the Mississippi and all other rivers and waters bordering on the said State of Minnesota.

so far as the same shall form a common boundary to said State and any other State or States now or hereafter to be formed by the same; and said rivers and waters, and navigable waters leading into the same, shall be common highways, and forever free as well to the inhabitants of said State as to other citizens of the United States, without any tax, duty, impost or toll thereon.

Mr. FLANDRAU. I move to strike out the word "original" in the tenth Section of the Bill of Rights, so as to make it read: "In "all prosecutions or indictments for libel, the truth may be given "in evidence," &c. It seems to me that the word "original" is utterly meaningless in that Section.

Mr. MEEKER. I think the word original is a misprint. The word really used in the Report was "criminal." I move to amend the amendment by inserting the word "criminal" in lieu of the word "original."

Mr. M. E. AMES. I hope that amendment will not prevail. I cannot for the life of me see any good reason for making a distinction in this Constitution between criminal suits for libel and civil suits for the same offence. If it is proper to invade the old English common-law rule, and allow the party indicted for libel to justify himself by giving the truth in evidence at all, it seems to me the argument is much the strongest in favor of allowing the accused to give the truth in evidence where he is prosecuted for damages by private suit than in case of a criminal prosecution. I am in favor of the provisions of the Section with the amendment. The old common-law rule was a very harsh one in its operation, and I hope the change proposed will be made, but there should certainly be no distinction between civil and criminal prosecutions; and I therefore hope the amendment to the amendment will not prevail.

Mr. FLANDRAU. When the Bill of Rights was originally before the Committee, I endeavored to demonstrate that there was no reason why the right to give the truth in evidence in suits for libel should be confined to criminal prosecutions. Under the Section as it stands, with the word "criminal" inserted, a man may be indicted criminally and justified by giving the truth in evidence: while if prosecuted by private suit for damages, he may be fined a a thousand dollars for the same offence. Now, why he should not be allowed the same rights in his defence in one case as in the other I cannot conceive. There is no reason why a rule should not be allowed in one case which is not allowed in the other; and I hope the word "criminal," or "original," or whatever it is, will be stricken out altogether.

Mr. SETZER raised the question of order, that the amendment having on a former occasion been offered in Committee it was not in order now to offer it.

The CHAIRMAN decided that the whole Article was now before the Committee as an original proposition, and therefore overruled the question of order.

The amendment to the amendment was not agreed to.

The amendment was adopted.

Mr. EMMETT moved to strike out the whole clause, and to insert as follows:

In actions for libel or slander, whether civil or criminal, the truth may be given in evidence as a bar to the action.

Mr. FLANDRAU moved to amend the amendment by striking out the words "or indictments," and leaving the Section to stand as it is.

The amendment to the amendment was not agreed to.

Mr. CURTIS moved to amend the amendment by striking out the word "indictments" and inserting the words "civil actions," and to insert the words "or slander" after the word "libel."

The amendment to the amendment was not agreed to.

The amendment was also rejected.

On motion of Mr. SETZER, the Committee here rose, reported progress and asked leave to sit again.

Leave was granted.

Mr. SETZER moved to suspend the rules to enable him to offer the following resolution:

RESOLVED, That where amendments have been adopted or rejected on a previous occasion, such subject shall not be again considered.

The rules were suspended and the resolution was received.

Mr. A. E. AMES. I think if the Convention should adopt that resolution, it would be placing ourselves in a dangerous position. The object in referring these Articles to the Committee on Revision and again considering them in Committee of the Whole, is to give the Convention an opportunity of relieving itself from any difficulties which may arise in reference to the Articles as they now stand. It may become necessary to strike out certain portions of certain Articles, the same provisions having been made in other places. I think the resolution will place the Convention in a dangerous position, and I hope it will not be adopted.

Mr. MEEKER. I am in favor of dispatch in our proceedings as much as any gentleman, but I do not think this resolution ought to be adopted. It will compel us to reconsider and ultimately result in more delay than if we go on with our business as at present.

Mr. SETZER. I offer that resolution for the purpose of putting an end at some time or other to the practice of offering amendments over and over again. I really think that after a subject has

been legitimately discussed and disposed of, it should be laid aside and that we should not be required to go over the same ground again and again.

After further debate, on motion of Mr. MEEKER, the resolution was laid on the table.

Mr. TAYLOR moved to adjourn.

The motion was not agreed to.

Mr. BAASEN moved a call of the Convention.

The motion was lost.

On motion of Mr. MEEKER, the Convention then adjourned until half past two o'clock, P. M.

AFTERNOON SESSION.

The Convention met pursuant to adjournment.

On motion of Mr. BAASEN, a call of the Convention was ordered.

The Sergeant-at-Arms was ordered to report the absent members in their seats.

Mr. EMMETT moved that the Committee of Conference be excused from attendance this day.

The motion was lost.

Mr. SETZER moved that Mr. McGRORTY be excused from attendance for twenty minutes.

The motion was not agreed to.

On motion of Mr. A. E. AMES, Mr. McGRORTY had leave of absence for half an hour.

On motion of Mr. A. E. AMES, further proceedings under the call were dispensed with.

Mr. A. E. AMES, on leave, introduced the following resolution which was adopted :

RESOLVED, That on the call of the Convention, the names of the absent members shall be entered on the Journal.

Mr. WAIT, the rules having been suspended for that purpose, offered the following resolution.

RESOLVED, That no discussion shall be in order in Convention or in Committee of the Whole, on Articles or Sections reported back by Committee on Phraseology and Revision, which have been heretofore passed upon and adopted by this Convention, except when an apparent discrepancy in such Articles or Sections may make explanation necessary.

Mr. EMMETT. I am opposed to that resolution. I will not say it is an attempt to gag this Convention, but, sir, I well recollect that when the first Article was submitted to the Committee on Revision, it was with the distinct understanding that when these

Articles came back again, they would be open to amendment and revision. It was upon that express ground that I withdrew an amendment which I had offered at the time. I recollect very well that in answer to the question, when it was asked, the CHAIR stated distinctly that the Article would be subject to amendment when the Committee on Revision should report.

The PRESIDENT. The CHAIR will state that his understanding of the resolution proposed by the gentleman from Stearns, (Mr. WAIT,) is that it does not cut off amendments; it proposes merely to avoid discussion upon those questions which have hitherto been considered in Convention or Committee of the Whole.

Mr. HOLCOMBE. I would suggest that it is not necessary to consider these Articles again in Committee of the Whole. They have all been considered once in Committee of the Whole and in Convention. We can give them what revision may be necessary here in Convention, but I cannot for the life of me see the necessity of going into Committee of the whole again upon these Articles.

After further debate, on motion of Mr. EMMETT, a call of the Convention was ordered.

After the roll had been called, on motion of Mr. A. E. AMES, further proceedings under the call were dispensed with.

The question recurring on the adoption of the resolution, it was decided in the affirmative.

Mr. A. E. AMES, the rules having been suspended for that purpose, offered the following resolution:

RESOLVED, That the engrossed Articles shall be only considered and amended in Convention.

Mr. SETZER suggested that the engrossed Articles were already in possession of the Committee of the Whole, and that it would first be necessary to go into Committee and report them back to the Convention.

Mr. A. E. AMES then withdrew his resolution.

On motion of Mr. A. E. AMES, the Convention resolved itself into Committee of the Whole, Mr. BECKER in the Chair, and resumed the consideration of the report of the Committee on Phraseology and Revision.

On motion of Mr. SIBLEY, the Committee rose and reported the engrossed Articles back to the Convention with amendments.

The amendments were concurred in.

On motion of Mr. CURTIS, the letter "s" was stricken off the the words "oaths" and "affirmations" in the eleventh section of the Bill of Rights.

On motion of Mr. MEEKER, the word "said" was stricken out of

fourth line, section thirteen, and the word "a" inserted in lieu thereof.

Mr. BECKER moved to strike out of the fourteenth section the words "first paid or secured."

The motion was agreed to.

On motion of Mr. BECKER, the "words "to meet," were inserted in the fourth line, sixth section of the Article on Legislative Department, before the word "without."

On motion of Mr. MEEKER, the words "Senate or," were inserted in the fifth line, section seven of the same Article.

Mr. STACEY moved to strike out the word "three" in second line, section seven, and insert "five."

The motion was lost.

Mr. STACEY moved to insert "four" instead of "three."

The motion was lost.

On motion of Mr. MEEKER, the word "and," was inserted in the fourth line, section eight, before the word "for."

On motion of Mr. CURTIS, the words "until two years," were stricken out in seventh line of section nine.

Mr. CURTIS moved to strike out the word "shall" in the eighth line, section eleven, and insert the word "may."

The motion was lost.

On motion of Mr. MEEKER, lines ten and eleven of section twenty-three were stricken out.

Mr. SWAN moved that section twenty-eight be stricken out.

The motion was lost.

Mr. EMMETT moved to amend section twenty-nine by submitting the following for the first two lines :

"Each member and officer of the Legislative Assembly shall, before entering upon the duties of his trust or office."

The resolution was agreed to.

On motion of Mr. M. E. AMES, the word "electing" was stricken out of section fifteen, and the line amended so as to read "the elective franchise, or of being elected to any office."

Mr. EMMETT moved to amend section fifteen so that the same would read "the privilege of being elected to any office."

The motion was carried.

On motion of Mr. SETZER, further consideration of the report was postponed until to-morrow.

On motion of Mr. SETZER, the Committee on Enrollment were instructed to have the Articles so far definitely acted upon, enrolled at their earliest convenience.

On motion of Mr. SETZER, the Convention then adjourned.

THIRTY-EIGHTH DAY.

WEDNESDAY, August 26.

The Convention met at 9 o'clock, A. M.

Prayer by the Chaplain.

The Journal of yesterday was read and approved.

CALL OF THE CONVENTION.

On motion of Mr. A. E. AMES, a call of the Convention was ordered, and the following members were found absent:

Messrs. A. E. Ames, Baker, Bailly, Brown, Baasen, Cantell, Chase, Flandrau, Gilbert, Gorman, Holcombe, Jerome, Kingsbury, Murray, McGrorty, McFetridge, Nash, Setzer, Sanderson, Sherburne, Shepley, Sturgis, Tuttle, Vasseur and Wilson.

The Sergeant-at-Arms was directed to report the absent members in their seats.

On motion of Mr. TENVOORDE, further proceedings under the call were dispensed with.

REVISION AND PHRASEOLOGY.

The Convention then resumed the consideration of the report of the Committee on Revision and Phraseology, the Article on the Judicial Department being first in order.

Mr. WAIT. I move to insert the word "circuit," in lieu of "District," in the second line of Section one.

I offer that amendment for the reason that as I understand, there will be no District Court of the State.

Mr. EMMETT. I trust that amendment will not prevail. We now have a District Court and the District Court which it is proposed to establish by this Constitution is to take the place of that provided by the organic act of the Territory. I trust the change will not be made, for I think that injury may be done by it. I see no benefits that are to arise from the adoption of the amendment. It is a mere name and as the District Courts now in existence will be almost identical with those we have established for the State, I think the same name should be continued.

Mr. WAIT. It is true that it was agreed by the Committee on the Judiciary, that the term District should be used, but I do not know that the question was discussed in Committee. But, sir, we shall have a District Court of the United States, under our State organization, and to prevent any conflict of term, it seemed to me better that the name "Circuit" should be applied to the State Courts.

Mr. EMMETT. We have also a Circuit Court of the United States.

The amendment was not agreed to.

Mr. CURTIS. I move to strike out the words "Seat of Government," in the ninth line of Section two.

It may become necessary to change the place for holding the Court, and I make the motion for that reason.

Mr. M. E. AMES. I hope that amendment will not prevail. It will create confusion. I think the Seat of Government is the proper place for holding the Court.

The amendment was not agreed to.

Mr. EMMETT. I move to amend the second Section by striking out from the word "Government" in the ninth line to the end of the paragraph in the eleventh line as follows:

And the Legislature may provide by a two-thirds vote that one term in each year shall be held in each Judicial District.

I make the motion upon the ground that the Supreme Court should be held at one place which should be where the library and all other records are kept. If the Supreme Court is obliged under the plea of administering justice at every man's door to carry records round the country, they can very easily spend what little salary they have, and it will besides create endless confusion. This system has been tried in several of the States and I believe they have settled down into the conviction that the Supreme Court, like the Supreme Court of the United States, shall be held in one place where the records shall be kept, and where there shall be a library. It is necessary in order to do justice that there should be a library accessible to the Court at the place where they are sitting, and if they are compelled to hold their court at different places, it puts it in the power of the Legislature to force the Supreme Judges to exhaust what little they may have in the way of salary, in traveling from place to place.

Mr. WAIT. I hope this amendment will not prevail. This matter was talked over in Committee and it was unanimously decided that the provision as incorporated in the Section should be reported.

Mr. EMMETT. I beg to say that as a member of that Committee, I never heard of this provision, until I saw it in the report of the Committee.

The amendment was not agreed to.

Mr. CURTIS moved to amend section three by striking out the word "Judges," and inserting the word "Justices," so as to make it read the "Justices of the Supreme Court," &c.

The amendment was agreed to.

Mr. A. E. AMES. For the purpose of testing the sense of the Convention, I submit a motion to strike out the word "seven," and insert "five," in the sixth line of section four, so as to make the term of office for the District Judges five years. I think that is a sufficiently long time for a Judge to serve in a District Court. If he is a bad Judge, it is long enough, and if he is a good one, he will be re-elected.

The amendment was agreed to.

Mr. A. E. AMES moved to strike out the word "Judges," where it occurs in Section six, and insert the word "Justices."

The motion was agreed to.

Mr. M. E. AMES. I do not think the last part of Section seven, regulating the powers and jurisdiction of Probate Judges is sufficiently explicit. I move to insert the words "and general Probate powers," in the thirteenth line, so that it shall read:

A Probate Court which shall have jurisdiction over the estates of deceased persons and persons under guardianship and general Probate powers, &c.

The amendment was agreed to.

Mr. M. E. AMES moved to strike out the word "over" in the eighth line of Section 8.

The amendment was agreed to.

Mr. WARNER moved to strike out "one" and insert "two," in the sixth line, so as to give Justices of the Peace jurisdiction of any civil cause where the amount in controversy shall not exceed two hundred, instead of one hundred dollars.

The motion was not agreed to.

Mr. TAYLOR moved to amend the same Section by striking out the word "two" and inserting "one," so as to make the term of office of Justices of the Peace one year, instead of two.

The motion was not agreed to.

Mr. STURGIS moved to amend the Section so as to extend the jurisdiction of Justices of the Peace to cases involving one hundred and fifty dollars.

The amendment was not agreed to.

Mr. M. E. AMES moved to strike out "seven" and insert "five," in Section nine, so as to make the term of office for all Judges other than those provided for in this Constitution, not longer than five years.

The amendment was agreed to.

On motion of Mr. A. E. AMES, the words "Justice of the Supreme Court or" were inserted in the first line of Section ten, so as to make it read:

In case the office of any Justice of the Supreme Court or Judge shall become vacant, &c.

On motion of Mr. STREETER, the words "or appointed" were stricken out of the fourth line of Section ten, so as to make it read:

The vacancy shall be filled by appointment of the Governor until a successor is elected and qualified.

On motion of Mr. WAIT, the words "Judges of" were inserted in the first line of Section eleven, so as to make it read:

"The Justices of the Supreme Court and the Judges of the District Court shall hold no office," &c.

Mr. CURTIS moved to strike out of Section eleven the words "given by the Legislature or the people," in the following clause:

And all votes for either of them for any elective office under this Constitution, except a Judicial Office, given by the Legislature or the people during their continuance in office, shall be void.

The motion was not agreed to.

Mr. TAYLOR moved to insert the word "two" in lieu of "four," in the following Section:

SEC. 13. There shall be elected in each county where a District Court shall be held, one Clerk of said Court, whose qualifications, duties and compensation shall be prescribed by law, and whose term of office shall be four years.

The motion was not agreed to.

Mr. A. E. AMES moved to strike out the words "but they shall be in substance according to the common law," in the following Section:

SEC. 14. Legal proceedings and proceedings in the Courts of this State shall be under the direction of the Legislature, but they shall be in substance according to the common law. The style of all process shall be "The State of Minnesota," and all indictments shall conclude "against the peace and dignity of the State of Minnesota."

Mr. SETZER demanded the yeas and nays, which were ordered, and the question being taken, resulted yeas 25, nays 18, as follows:

YEAS—Messrs. A. E. Ames, M. E. Ames, Armstrong, Butler, Becker, Barrett, Burns, Burwell, Curtis, Cantell, Chase, Day, Flandrau, Gilman, Jerome, Kennedy, Keegan, Lashelle, Murray, McFetridge, McMahan, Rolette, Sturgis, Streeter and Swan—25.

NAYS—Messrs. Baasen, Davis, Emmett, Faber, Gorman, Leonard, Meeker, Norris, Nash, Prince, Setzer, Sherburne, Stacey, Taylor, Tenvoorde, Wait, Warner and Mr. President—18.

So the amendment was agreed to.

Mr. M. E. AMES moved to suspend the rules to enable him to move to amend Section three, (that Section having been passed,) so as to make the term of office of Justices of the Supreme Court five years, instead of seven.

The rules were not suspended.

On motion of Mr. WAIT, the word "any" was stricken out of Section two, third line of the Article on Elective Franchise, so as to make it read: "No person who has been convicted of treason "or felony," instead of "any felony."

Mr. STREETER moved to strike out the following Section:

SEC. 5. During the day on which any election shall be held, no civil process shall be served on any person entitled to vote at such election.

The motion was not agreed to.

Mr. BAASEN moved to strike out the preamble of the Article on School Funds, Education and Science, which is as follows:

Wisdom and knowledge, as well as virtue, being essential to the preservation of the rights and liberties of the people, therefore.

The motion was not agreed to.

Mr. BUTLER moved to insert the words "investigation in," in the seventh line of Section 1, so as to make it read "and investigations in Natural History."

The motion was not agreed to.

Mr. EMMETT moved to strike out the preamble, and also to strike out the words "in Literature and Science, and" in the fourth line of Section 1; also the words "for the promotion of Agriculture, Arts, Science, Trade, Manufactures and Natural History."

Mr. EMMETT called for the yeas and nays, which were ordered, and the question being taken resulted, yeas 19, nays 23, as follows:

YEAS—Messrs. Butler, Becker, Baasen, Curtis, Emmett, Flandrau, Gorman, Jerome, Kennedy, Keegan, Norris, Nash, Rolette, Setzer, Sanderson, Sherburne, Stacey, Swan and Tenvoorde—19.

NAYS—Messrs. A. E. Ames, M. E. Ames, Armstrong, Barrett, Burns, Burwell, Chase, Davis, Day, Faber, Gilman, Leonard, Lashelle, Meeker, McFetridge, McMahon, Prince, Sturgis, Streeter, Taylor, Wait, Warner and Mr. President—23.

So the motion was not agreed to.

Mr. BECKER moved to strike out of Section 2, fourth line, the word "two" and insert "ten" in lieu thereof, and strike out all to the colon following, so as to make it read:

SEC. 2. The proceeds of such lands as are or hereafter may be granted by the United States for the use of Schools within each township in this State, shall remain a perpetual fund, and not more than one-third of said lands may be sold in ten years.

Mr. CHASE moved to add the words "for less than five dollars per acre," at the end of the following clause:

But the lands of the greatest valuation shall be sold first; Provided that no portion of said lands shall be sold otherwise than at public sale.

The motion was not agreed to.

Mr. EMMETT moved to strike out the words "but the lands of the greatest valuation shall be sold first."

The motion was lost.

Mr. WARNER moved to strike out section 3, as follows:

SEC. 3. The Legislature shall make such provisions, by taxation or otherwise, as with the income arising from the school fund, will secure a thorough and efficient system of Public Schools in each township in the State.

The motion was not agreed to.

Mr. TAYLOR moved to strike out of Section 5, of the Article on Finances of the State, Banks and Banking, in eleventh line, the word "ten" and insert "five," so as to make it read:

"And every such law shall levy a tax annually sufficient to pay the annual interest of such debt, and also a tax sufficient to pay the principal of such debt within five years from the final passage of such law."

The amendment was not agreed to.

On motion of Mr. BECKER, the words "at any one time" were inserted in the third line of section 5, so as to make it read:

SEC. 5. For the purpose of defraying extraordinary expenditures, the State may contract public debts, but such debts shall never singly nor the aggregate, at any one time exceed two hundred and fifty thousand dollars.

On motion of Mr. M. E. AMES, the words "singly nor" were stricken out in the clause just quoted.

On motion of Mr. EMMETT, the words "an appropriation by" were stricken out of Section 9, so as to make it read:

"No money shall ever be paid out of the Treasury of this State, except in pursuance of law."

On motion of Mr. CURTIS, the word "whom" was stricken out of section 11, and the words "what source" inserted in lieu thereof, so as to make it read "to what source paid" instead of "to whom paid."

Mr. TAYLOR moved to strike out the following section:

SEC. 13. The Legislature may, by a two-thirds vote, pass a General Banking Law, with the following restrictions and requirements, viz:

First—The Legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments, by any person, association or corporation issuing bank notes of any description.

Second—The Legislature shall provide by law for the registry of all bills or notes issued or put in circulation as money, and shall require ample security in United States stock or State stocks for the redemption of the same in specie, and in case of a depreciation of said stocks, or any part thereof, to the amount of ten per cent. or more on the dollar, the bank or banks owning said stocks shall be required to make up said deficiency by additional stocks.

Third—The stockholders in any corporation and joint association for banking purposes issuing bank notes, shall be individually liable for all the debts of such corporation or association.

Fourth—In case of the insolvency of any bank or banking association, the billholders thereof shall be entitled to preference in payment over all other creditors of such bank or association.

Fifth—Any General Banking Law which may be passed in accordance with

this Article shall provide for recording the names of all stockholders in such corporations, the amount of stock held by each, the time of transfer, and to whom.

The motion was not agreed to.

Mr. M. E. AMES. I move to amend Section 13, in the third subdivision, by striking out the words "for all the debts of such cor- "poration or association," and inserting in lieu thereof, "Over and "above the stock by him or her owned, to a further sum at least "equal in amount to such stock."

I beg to remark that although I understand there was some discussion on this subject in Committee of the Whole, yet several gentleman who have conversed with me since that time desire to reinstate the original report as it was made by the Committee on this subject. I would simply state that this amendment accomplishes that object.

Mr. STACEY demanded the yeas and nays, which were ordered, and the question being taken, resulted, ayes 25, nays 18, as follows:

YEAS—Messrs. A. E. Ames, M. E. Ames, Becker, Barrett, Curtis, Cantell, Chase, Day, Emmett, Flandrau, Gilman, Jerome, Leonard, Lashelle, Meeker, McFetridge, McMahan, Prince, Rolette, Setzer, Sturgis, Taylor, Tenvoorde, Tuttle and Wait—25.

NAYS—Messrs. Armstrong, Butler, Burns, Burwell, Baasen, Davis, Faber, Kennedy, Keegan, McGrorty, Norris, Nash, Sanderson, Stacey, Streeter, Swan, Warner, and Mr. President—18.

So the amendment was adopted.

Mr. M. E. AMES. There is another feature of this section to which I wish to call the attention of the Convention. It is one upon which there has been considerable diversity of opinion, relating to the proper basis or security for banking. As we are about embarking in a railroad system it may be desirable that we should keep our stocks at home, within our own State. I move, therefore, to insert after the word "stocks," the words "railroad bonds."

Mr. BECKER. I have no desire to make any speech upon this subject, but sir, it is well known that United States Stocks are entirely out of the question. They are worth to day $1.20 or $1.25 on the dollar. Government cannot buy them for itself. So that they are no basis for banking in this Territory. We have provided that the debt of this State shall never exceed $250,000. So that the Stocks of the State will never furnish security for banks to any considerable amount. We shall, therefore, have to depend entirely upon Stocks of other States, for our Banking Capital as the Section now stands. I move to amend the amendment, by striking out the words "United States Stock or State Stocks," and

leave it to the Legislature to provide such securities as they may see proper.

Mr. MEEKER demanded the yeas and nays which were ordered, and the question being taken, resulted yeas 4, and nays 38, as follows:

YEAS—Messrs. Becker, Emmett, Setzer, Tenvoorde—4.

NAYS—Messrs. A. E. Ames, M. E. Ames, Armstrong, Barrett, Butler, Burns, Burwell, Baasen, Curtis, Chase, Davis, Day, Faber, Flandrau, Gorman, Gilman, Jerome, Kennedy, Keegan, Leonard, Lashelle, Meeker, McFetridge, McMahan, Norris, Nash, Prince, Rolette, Stacey, Sanderson, Sturgis. Streeter, Swan, Taylor, Tuttle, Wait, Warner, and Mr. President—38.

So the amendment to the amendment was not agreed to.

Mr. BAASEN moved to amend the amendment by adding after the words "State Stocks," the words "or first mortgage bonds on "Railroads in this State; said bonds not to exceed the amount of "$10,000 for each mile of roads in running order."

Mr. MEEKER demanded the yeas and nays which were ordered, and the question being taken, resulted yeas 5, and nays 39, as follows:

YEAS—Messrs. M. E. Ames, Barrett, Baasen, Chase, and Setzer—5.

NAYS—Messrs. A. E. Ames, Armstrong, Butler, Becker, Burns, Burwell, Curtis, Davis, Day, Emmett, Faber, Flandrau, Gorman, Gilman, Jerome, Kennedy, Keegan, Lashelle, Leonard, Murray, Meeker, McFetridge, McGrorty, McMahan, Norris, Nash, Prince, Rolette, Sanderson, Stacey, Sturgis, Streeter, Swan, Taylor, Tenvoorde, Tuttle, Wait, Warner, and Mr. President—39.

So the amendment to the amendment was rejected.

The question then recurred on the amendment.

Mr. STREETER demanded the yeas and nays which were ordered, and the question being taken, resulted yeas 2, and nays 43, as follows:

YEAS—Messrs. M. E. Ames, and Setzer—2.

NAYS—Messrs. A. E. Ames, Armstrong, Butler, Becker, Barrett, Burwell, Burns, Baasen, Curtis, Cantell, Chase, Davis, Day, Emmett, Flandrau, Faber, Gorman, Gilman, Jerome, Kennedy, Keegan, Leonard, Lashelle, Meeker, McGrorty, Murray, McFetridge, McMahan, Norris, Nash, Prince, Rolette, Sanderson, Stacey, Streeter, Sturgis, Swan, Taylor, Tenvoorde, Tuttle, Wait, Warner, and Mr. President—43.

So the amendment was rejected.

Mr. KEEGAN moved to amend Section 1, fifth line of the Article "on Corporations having no Banking Privileges," by striking out the word "natural," and inserting the word "other," so as to make it read:—

SECTION 1. The term "Corporations" as used in this Article, shall be construed to include all Associations and Joint Stock Companies, having any of the powers and privileges not possessed by individuals or partnerships except such as embrace Banking Privileges, and all Corporations shall have the right to sue, and shall be liable to be sued in all Courts in like manner as natural persons.

The motion was not agreed to.

Mr. CURTIS moved to insert the word "individuals," in lieu of the words "natural persons."

The motion was rejected.

On motion of Mr. WAIT the "quotation" marks in the first line were struck out.

On motion of Mr. EMMETT the word "all," was inserted in lieu of the word "the," in the seventh line, of Section 4, so as to make it read:

"Shall be bound to carry all mineral, agricultural and other productions or manufactures on equal and reasonable terms."

On motion of Mr. EMMETT the words "already organized," in the fifth line of Section 1, of Article on Counties and Townships, were stricken out and the word "organized," inserted in the fourth line before the word "Counties," so as to make it read:

"And all laws changing county lines in organized counties, or for removing county seats shall, before taking effect, be submitted to the electors of the county or counties to be effected thereby, at the next general election after the passage thereof, and be adopted by a majority of such electors."

On motion of Mr. EMMETT the word "such," was out of the eighth line of Section 1, and the words "in each County," added after the word "electors."

Mr. SHEPLEY moved to strike out all after the word "Counties," in the second line of Section 1.

The amendment was not agreed to.

Mr. TAYLOR moved to amend Section 2, which provides that any city having twenty thousand inhabitants may be organized as a separate county, by striking out "twenty thousand," and inserting "eighteen thousand."

The amendment was not agreed to.

Mr. A. E. AMES moved to insert in the second line of Section 3, after the word "purposes," the words "by general laws," so as to make it read:

SEC. 3. Laws may be passed providing for the organization, for municipal and other town purposes, by general laws of any Congressional or fractional townships in the several counties in the State.

The amendment was not agreed to.

Mr. EMMETT moved to add the following to the Section:

"But its credit shall never be given or loaned in aid of any individual, association or corporation."

Mr. BAASEN moved a call of the Convention.

The motion was not agreed to.

Mr. TAYLOR moved to adjourn.

The motion was lost.

Mr. STACEY moved to adjourn until half-past two.

The motion was lost.

Mr. MEEKER demanded the yeas and nays on the amendment, which were ordered, and the question being taken resulted, yeas 21, and nays 21, as follows:

YEAS—Messrs. A. E. Ames, Butler, Barrett, Curtis, Chase, Day, Emmett, Flandrau, Gorman, Leonard, Lashelle, Murray, McGrorty, Norris, Prince, Setzer, Sanderson, Shepley, Sturgis, Swan, and Taylor—21.

NAYS—Messrs. M. E. Ames, Armstrong, Burwell, Becker, Baasen, Burns, Davis, Faber, Gilman, Kennedy, Keegan, McFetridge, Meeker, McMahan, Stacey, Streeter, Tenvoorde, Tuttle, Wait, Warner, and Mr. President—21.

So the amendment was rejected by a tie vote.

Mr. TAYLOR moved that the Convention adjourn.

The motion was not agreed to.

Mr. MURRAY moved to adjourn until half-past two o'clock, P. M.

The motion was not agreed to.

Mr. STACEY moved that the further consideration of the report be postponed for the present.

The motion was not agreed to.

Mr. STACEY moved that the Convention adjourn until half-past two o'clock, P. M.

The motion was not agreed to.

Mr. BAASEN moved that there be a call of the Convention.

The motion was not agreed to.

Mr. A. E. AMES moved to amend Section one of the Article on Impeachments and Removals from Office, by striking out the word "Judges" in second line and insert the word "Justices," and insert before the word "District" in the second line the words "Judges of," so as to make it read:

SEC. 1. The Governor, Secretary of State, Treasurer, Auditor, Attorney-General, and the Justices of the Supreme and Judges of District Courts, may be impeached for corrupt conduct in office, or for crimes and misdemeanors; but judgment in such cases shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust or profit, in this State. The party convicted thereof shall nevertheless be liable, and subject to indictment, trial, judgment and punishment according to law.

The amendment was agreed to.

Mr. EMMETT moved to amend Section five by inserting after the word "copy," in the second line the words "of the Articles," so as to make it read:

"SEC. 5. No person shall be tried on impeachment before he shall have been served with a copy of the articles thereof at least twenty days previous to the day set for trial."

The amendment was agreed to.

On motion of Mr. CHASE, the Convention adjourned until half past two o'clock, P. M.

AFTERNOON SESSION.

The Convention met persuant to adjournment.

On motion of Mr. TENVOORDE a call of the Convention was ordered and the following members were found absent:

Messrs. Baker, Burns, Chase, Faber, Flandrau, Gilbert, Holcombe, Kingsbury, Kennedy, Leonard, McGrorty, Norris, Nash, Prince, Rolette, Sherburne, Shepley, Warner and Wilson.

On motion of Mr. A. E. AMES all further proceedings under the call were dispensed with.

PHRASEOLOGY AND REVISION.

The Convention then resumed the consideration of the report of the Committee on Phraseology and Revision, the Article on Miscellaneous subjects being under consideration.

Mr. EMMETT moved to insert the words "Territory for the use of the" in the eleventh line of Section three, so as to make it read:

"All recognizances taken before the change from a Territorial to a State Government, shall remain valid, and pass to, and may be prosecuted in the name of the Territory for the use of the State."

The amendment was not agreed to.

Mr. SETZER moved to add the following to Section four:

"And the right of suffrage and holding office shall be secured to married women."

Mr. MEEKER. I rise to a question of order. A resolution was passed yesterday at the instance of the gentleman from Washington (Mr. SETZER) himself prohibiting any amendments being offered which had once been offered in Committee of the Whole.

Mr. SETZER. That resolution was laid on the table. The gentleman should find out what the Convention has been doing before he undertakes to call me to order. [Laughter.] I will now simply state my reasons for offering the amendment. It is an old Democratic principle that there should be no taxation without representation. It was that principle for which our forefathers fought in the Revolutionary War, and since we have made married women liable to taxation upon their property it is necessary in order to carry out this great Democratic principle, that we should extend to them the right of suffrage.

Mr. M. E. AMES. I have an amendment to offer by way of affording what I consider a very necessary protection. I move to amend by adding:

"Provided that nothing in this Section shall be construed to prevent the gentleman from Washington (Mr. SETZER) and the gentleman from Hennepin (Mr MEEKER) from marrying." [Laughter.]

The PRESIDENT. The Chair rules the amendment to the amendment out of order.

The amendment was not agreed to.

Mr. SETZER moved to strike out Section five which provides for fixing the permanent seat of Government of the State.

The amendment was not agreed to.

Mr. SETZER. I have been informed that the Committee of Conference have all these Articles under consideration. Now, sir, I call the attention of the Convention to the fact that if these Articles are now passed over they cannot be again amended. For myself, I am in favor of discharging the Committee of Conference right here upon the spot. But believing that a majority of the Convention would not sustain me in that motion, and believing that we ought not to proceed further until this Committee of Conference either make their report or are discharged, I move that the further consideration of this report be postponed until to-morrow.

Mr. M. E. AMES demanded the yeas and nays on the motion, which were ordered, and the question being taken resulted yeas 21, nays 23, as follows :

YEAS—Messrs. A. E. Ames, Armstrong, Burns, Cantell, Davis, Day, Gilman, Jerome, Keegan, Lashelle, M'Grorty, McFetridge, Prince, Rolette, Setzer, Stacey, Sturgis, Streeter, Taylor, Vasseur, Wait—21.

NAYS—Messrs. M. E. Ames, Butler, Becker, Barrett, Burwell, Baasen, Curtis, Chase, Emmett, Gorman, Kennedy, Leonard, Murray, Meeker, McMahan, Norris, Sanderson, Shepley, Swan, Tenvoorde, Tuttle, Warner, Mr. President—23.

So the motion was disagreed to.

Mr. GILMAN moved to take a recess for one hour.

The motion was not agreed to.

Mr. ROLETTE moved that the Convention adjourn.

The motion was not agreed to.

PERSONAL EXPLANATIONS.

Mr. GORMAN. I rise to a question of privilege. That the remarks which I shall make, which will be very brief, may be reported for publication, I propose to make a statement, which is due to myself and others.

A statement of the facts and circumstances which led to the personal difficulty between Hon. W. A. Gorman and Hon. Mr. Wilson, members of the joint committee of the two Conventions, now in session at the Capitol.

This committee had been in session for several days, and had finally agreed, substantially, upon one Constitution, to be jointly submitted to the people, when a final vote was taken in committee on submitting as a separate proposition, the negro suffrage question, and the committee failed to agree, and Mr. Gorman was authorized to report that fact to the Democratic Convention. It was then proposed in committee to agree, if possible, on two Constitutions

on the same day. On yesterday, the 25th inst., the matter was under consideration. When in the morning it appeared as almost hopeless to agree, Mr. Gorman stated that he thought, with all due respect to other gentlemen's views, that he could see a disposition not to agree on the manner of submitting two Constitutions, to which Mr. Wilson turned to Mr. Gorman and said bluntly that what he, Gorman, had stated was not true.

Mr. Gorman patiently bore this insult, and warded off its force by an appeal to his remark, and manifested much forbearance.

Mr. Wilson has shown evident ill-will or ill-blood towards Mr. Gorman from the first day of meeting. This first meeting was in the morning. When we met in the evening, a dispute arose, which became somewhat warm, between Judge Sherburne and Mr. Wilson, arising out of a supposed misunderstanding of Mr. Wilson's position on a pending question, when Mr. Gorman remarked that he understood Mr. Wilson, as did Judge Sherburne.

Mr. Gorman was reclining on the sofa, and Mr. Wilson sitting facing him, when Mr. Wilson replied to Judge Sherburne that there were some men whom he hoped would understand him, in whom he had no confidence personally or politically, and he wanted to be allowed to choose his own associates; but, said Mr. Wilson, "I do not apply that language to Judge Sherburne."

Mr. Kingsbury then promptly demanded if he, Wilson, intended that language for him, to which Mr. Wilson replied, "No, sir; but there were others in the committee who he did apply it to." Whereupon Mr. Gorman raised on his elbow from a reclining posture on the sofa, and asked quietly if Mr. Wilson intended that offensive language to him; to which Mr. Wilson replied, looking in the face of Mr. Gorman, "I certainly do apply it to you." Whereupon Mr. Gorman rose and struck Mr. Wilson with the small end of his gold headed cane he then held in his hand, and broke it, and then followed it with blows with his fist.

They were promptly separated, and while two persons were holding Mr. Gorman, Mr. Wilson seized a large lead-headed cane, and approached Mr. Gorman, when Gorman said, "don't hold me until he strikes me with that cane. If he does, I will make a more summary defence than I have." Mr. Gorman shortly after passed out of the room, and returned in a minute or two and took up his hat, and walked deliberately out of the room.

One act of aggression waived invites another, if the aggressor is inclined to persist to a conflict. Five different times has my word been disputed, during my service on that Committee, by Mr. WILSON. In language as cool and diplomatic as I could possibly call to my aid, I waived it, and evaded it. My associates on the Committee have repeated to me again and again, that I had shown more forbearance than they had thought was in my composition.

As these assaults grew in number, they increased in violence, both in manner and matter, until forbearance ceased to be a virtue. Sir, the first time Mr. WILSON bluntly gave the falsehood to my teeth, I apologized myself out of it, feeling as if I was partially degraded. I returned and announced to each of the members of the Committee that we could make no further proposition, and could proceed no further; that Mr. BROWN, Mr. HOLCOMBE, Mr. KINGSBURY, and myself, had, from time to time, presented proposi-

tions to the Committee, none of which seemed satisfactory, and that we now trusted gentlemen on the opposite side would make some proposition; that it was more easy to pull down than it was to build up, more easy to destroy than to create; that we had done what little we could for the successful accomplishment of the grand object of that Committee—the submission of but one Constitution to the people, or, if two Constitutions must be submitted, the submission of both upon the same day, with some arrangement by which there should be no conflict in respect to the apportionment, or the election returns.

To that end I have devoted my entire energies to effect some compromise; to that end I have labored by day and by night; to that end I have voted here, in and out of caucus; to that end I have spoken privately and publicly, in caucus and in Convention. Sir, I yet cherish the hope that the matter will be consummated to the entire satisfaction of both the contending parties. I yet trust that we shall be able to present the matter in such form as shall give quiet and harmony to the Territory, as the result of the deliberations of that Committee; to that end I shall vote now, and always hereafter, regardless of the indignities which may be thrown upon my character, either privately or publicly.

The Republican press of this city have this morning contained language towards me which I can well afford to bear. I ask nothing but what is right, and I shall even submit to wrong while forbearance continues to be a virtue. There has been a peculiar mode of attack upon my character, as a man of truth, which has been persisted in day after day by the gentlemen of whom I have had occasion to speak. And, sir, I avail myself of this occasion to say, that at home or abroad, wherever I may find the individual opportunity—for I have no means of taking satisfaction of an omnibus of men in their editorial character, even I was so inclined—they can lay on their anathemas, and I shall go before my fellow-citizens of the country with the conscious rectitude of my public and private conduct, and of having discharged my duty to my fellow men, for the best interests and welfare of the Territory and State, faithfully, honestly, and impartially. I shall appeal to that arbiter where I have never appealed in vain. I shall present myself before the people of every county where I possibly can. I shall present the principles of the Democratic faith wherever I can have audience and be heard. If such a course continues to bring upon my head the anathemas and abuses of my enemies, I shall bear it as long as forbearance is a virtue.

But if I am driven to defend personal character against that pe-

culiar manner in which I have been assailed, I shall at all times, as I did down stairs yesterday, in that Committee room, defend myself as effectively as the God of nature gives me the power and means.

My temper is not so easily aroused as some of my fellow-citizens might suppose. I have passed through some ordeals in which my possession of that which constitutes courage has been tested. I claim nothing on that ground; I claim no superiority in that respect. What there is of my past has been written athwart the history of the country to some extent, as far as I have figured in my humble capacity in public life. To that record I recur with bright pleasure. I shall recur to it in justification of my past life; I shall recur to it in justification of my future.

But, sir, whatever becomes of me, matters but little. I do not intend, where falsehoods are charged so glaring as to work an injury to that party to which I owe all that I am; that party which I have served from my cradle almost—since I was twenty-one years of age, and long before, down to the present hour, and from which I never expect to swerve—I say I do not intend to let such falsehoods to pass unrebuked. They will take license to abuse me as they have done, but I say to them, and I say to my fellow countrymen, that I do not desire that they shall do it in my presence; but, sir, I shall defend my honor until the last glimmer of the lamp goes out, from assault by friend or foe.

Sir, I have a reputation which I have won from a position more humble, perhaps, than any man on this floor. And it is because the God of nature has given me some little capacity to communicate my thoughts with more or less facility, that I have been the object of attack, not only here, but from my political adversaries from the time I entered public life to the present hour.

Since they have assumed this belligerent attitude towards me, I have only to notify them that there are blows to give as well as take. If that Providence which has sustained me through a life of forty-three years, spares me another year, I shall, at least, attempt to make my Republican fellow citizens feel that the vital spark is not yet extinct. I feel some consolation in knowing that men do not stop to kick a corpse, and I am inclined to feel flattered that there is a little of the vital spark, a little of the genius of mind, left in me, or the Republican party would not be so much inclined to stab me by day and by night. And, sir, whatever remains of that vital spark, shall be used for the promotion of the interests of the Democratic party, so long as I remain a resident of Minnesota, which will probably be to the end of my life. [Applause.]

On motion of Mr. M. E. AMES, the Convention, at a quarter before four o'clock, adjourned.

THIRTY-NINTH DAY.

THURSDAY, August 27, 1857.

The Convention met at 9 o'clock, A. M.

The Journal of yesterday was read and approved.

On motion of Mr. A. E. AMES, the Convention took a recess for one hour.

After which, Mr. SETZER moved that the Convention resolve itself into Committre of the Whole on the Schedule.

The motion was not agreed to.

On motion of Mr. EMMETT, the Convention adjourned until half-past two o'clock, P. M.

AFTERNOON SESSION.

The Convention met pursuant to adjournment.

Mr. ROLETTE moved to adjourn.

The motion was not agreed to.

SCHEDULE.

On motion of Mr. SETZER, the Convention resolved itself into Committee of the Whole (Mr. NORRIS in the Chair), and proceeded to the consideration of the Report of the Committee on the Apportionment, &c. in the Schedule.

On motion of Mr. CURTIS, the Committee rose and reported the Schedule back to the Convention.

Mr. A. E. AMES moved to strike out of the following Section all after the words: "United States":

SEC. 2. There shall be elected, at the said first election, three members of the House of Representatives of the United States, and if, after the enumeration of the population shall be made, it shall be ascertained that under that enumeration but two members can be admitted to seats, then the two persons who shall have received the highest number of votes shall be deemed to be elected.

The amendment was agreed to.

On motion of Mr. ROLETTE, the words "and Tod" were stricken out of the seventeenth line and the word "and" inserted before "Pembina," in the following Section:

SEC. 3. For the purposes of the first election for members of the State Senate and House of Representatives, the State shall be divided into Senatorial and Representative Districts, as follows, to wit:

1st District, Washington County; 2d District, Ramsey County; 3d District, Dakota County; 4th District, so much of Hennepin County as is west of the Mississippi; 5th District, Rice County; 6th District, Goodhue County; 7th District, Scott County; 8th District, Olmsted County; 9th District, Fillmore County; 10th District, Houston County; 11th District, Winona County; 12th District, Wabashaw County; 13th District, Mower and Dodge Counties; 14th District, Freeborn and Faribault Counties; 15th District, Steele and Waseca Counties; 16th, Blue Earth and Le Sueur Counties; 17th, Nicollet and Brown; 18th, Sibley, Renville and Mc Leod; 19th, Carver and Wright; 20th, Benton, Stearns and Meeker; 21st, Morrison, Crow Wing and Mille Lac; 22d, Cass, Pembina and Tod Counties; 23d, Sherburne, Anoka and Manomin Counties; 24th, Chisago, Pine and Isanti Counties; 25th, so much of Hennepin County as lies east of the Mississippi; 26th, Buchanan, Carlton, St. Louis, Lake and Itasca Counties.

On motion of Mr. BAASEN, the words "and Tod Counties" were inserted in the seventeenth line of Section three after the words "Mille Lac," and the word "and" struck out of the line before the words "Mille Lac."

Mr. WAIT moved to strike out in the fifteenth line the words "and Meeker," and insert the word "and" before the word "Stearns."

The motion was not agreed to.

Mr. MURRAY moved to strike out the word "Manomin" in the nineteenth line.

The motion was not agreed to.

On motion of Mr. SETZER, the figure "3" was stricken out where it first occurs, and "4" inserted, in the following Section:

SEC. 5. The Senators and Representatives, at the first election, shall be apportioned among the several Senatorial and Representative Districts, as follows, to wit:

1st	District.....	2	Senators.....	3	Representatives.		
2d	"	3	"	6	"		
3d	"	2	"	5	"		
4th	"	2	"	4	"		
5th	"	2	"	3	"		
6th	"	1	"	4	"		
7th	"	1	"	3	"		
8th	"	2	"	4	"		
9th	"	2	"	6	"		
10th	"	2	"	3	"		
11th	"	2	"	4	"		
12th	"	1	"	4	"		
13th	"	2	"	3	"		
14th	"	1	"	3	"		
15th	"	1	"	3	"		
16th	"	1	"	3	"		
17th	"	1	"	3	"		
18th	"	1	"	3	"		
19th	"	1	"	3	"		

20th	" 1	Senator.....	3	Representatives.	
21st	" 1	"	1	"	
22d	" 1	"	1	"	
23d	" 1	"	1	"	
24th	" 1	"	1	"	
25th	" 1	"	2	"	
26th	" 1	"	1	"	
	37		80		

On motion of Mr. BAASEN, the section was so amended as to give the Twelfth District "two" Representatives instead of "four."

Mr. TAYLOR moved to amend so as to give the Second District four Senators and seven Representatives instead of three Senators and six Representatives.

Mr. EMMETT moved to amend the amendment so as to give the District four Senators and eight Representatives.

The amendment to the amendment was not agreed to.

The amendment was adopted.

Mr. SHEPLEY moved to amend so as to give the Ninth District one Senator instead of two, and also to give the Twentieth District two Senators instead of one.

The amendment was agreed to.

Mr. STURGIS moved to amend so as to give the Ninth District, five Representatives instead of six, and the Twenty-first District two Representatives instead of one.

The amendment was agreed to.

Mr. BAASEN moved to amend so as to give the Eleventh District one Senator instead of two.

The motion was agreed to.

Mr. ROLETTE moved to amend so as to give the Twenty-second District two Representatives instead of one.

The motion was agreed to.

Mr. EMMETT moved to amend Section seven by striking out the words "Supreme Judges," and inserting "Justices of the Supreme Court."

The amendment was agreed to.

Mr. EMMETT moved to strike out the words "County and Precinct officers within the State," in the following section:

SEC. 8. Upon the day so designated by the Governor, as aforesaid, elections may be held at the several precincts within said State for members of the United States House of Representatives, for members of the two Houses of the Legislature, and for the election of all State, District, County and Precinct officers within the State, and at such election every free white male inhabitant over the age of twenty-one years, who shall have resided within the limits of the State for ten days previous to the day of said election, may vote for all the officers to be elected at such election, and also for or against the adoption of the Constitution.

The motion was not agreed to.

Mr. STURGIS moved to amend the Section by striking out the word "ten," and inserting "thirty."

The motion was not agreed to.

Mr. BARRETT moved to strike out the same word and insert "five."

The motion was not agreed to.

Mr. SETZER. I move ro strike out Section nine, and will state that the whole thing comes up in Section thirteen.

The section is as follows:

SEC. 9. In voting for or against the adoption of the Constitution, the words "For Constitution, yes;" or "For Constitution, no," may be written or printed on the ticket of each voter; but no voter shall vote for or against the Constitution on a separate ballot from that cast by him for officers to be elected at said election.

The motion was agreed to.

Mr. EMMETT moved to strike out all after the word "specified" in the following section:

SEC. 10. At said election the polls shall be opened, the election held, returns made and certificates issued in all respects as provided by law for opening, closing and conducting Elections and making returns of the same, except as herein before specified, and excepting, also, that polls may be opened and elections held at any point or points in any of the Counties not less than ten miles from the place of voting, in any established precinct where there may be five or more voters, although precincts may not have been regularly established at such point or points, and the polls shall be opened, elections held, and returns made in the same manner as from established precincts.

The motion was not agreed to.

Mr. CURTIS moved to strike out the following section:

SEC. 12. The returns of said election for all State officers and members of the House of Representatives of the United States, shall be made, canvassed and certificates issued in the manner now prescribed by law for returning and canvassing votes given for Delegate to Congress, and the returns for all District officers, Judicial, Legislative or otherwise, shall be made to the Register of Deeds of the senior County in each District, in the manner prescribed by law, except as herein otherwise provided.

Mr. SETZER demanded the yeas and nays, which were ordered, and the question being taken, resulted, yeas 18, nays 24, as follows:

YEAS—Messrs. M. E. Ames, Curtis, Cantell, Day, Emmett, Gilbert, Jerome, Murray, McMahan, Prince, Rolette, Sanderson, Sturgis, Taylor, Tuttle, Vasseur, Wait and Warner—18.

NAYS—Messrs. A. E. Ames, Armstrong, Butler, Becker, Barrett, Burwell, Baasen, Chase, Davis, Flandrau, Gorman, Kennedy, Keegan, Lashelle, Meeker, McFetridge, Norris, Setzer, Stacey, Shepley, Streeter, Swan, Tenvoorde and Mr. President—24.

So the motion was not agreed to.

On motion of Mr. STACEY the word "Waseca" was inserted in the seventh line of Section fifteen, so as to make the paragraph read:

The Counties of Carver, Sibley, Renville, Nicollet, Le Sueur, Scott, Dakota, Blue Earth, Steele, Waseca, Faribault, Freeborn, and so much of Brown County as originally established as lies east of the line designated as the line of the State, shall comprise the second Judicial District.

Mr. SETZER moved that the rules be suspended so as to allow the Article to be engrossed.

Mr. SANDERSON demanded the yeas and nays, which were ordered, and the question being taken, resulted yeas 17, nays 25, as follows:

YEAS—Messrs. Armstrong, Barrett, Baasen, Cantell, Day, Jerome, Murray, McFetridge, Rolette, Setzer, Stacey, Shepley, Streeter, Tenvoorde, Vasseur, Wait and Warner—17.

NAYS—Messrs. A. E. Ames, M. E. Ames, Butler, Becker, Burns, Burwell, Curtis, Chase, Day, Emmett, Flandrau, Gilbert, Gorman, Kennedy, Keegan, Lashelle, Meeker, McMahan, Norris, Prince, Sanderson, Sturgis, Taylor, Tuttle and Mr. President—25.

Mr. TAYLOR moved to suspend the rules to enable him to offer an additional Section.

The rules were not suspended.

Mr. STURGIS moved to strike out the words "Crow Wing," in the following paragraph:

The Counties of Washington, Chisago, Lake, Saint Louis, *Crow Wing*, Pine, Isanti, Mille Lac and Buchanan shall comprise the fourth Judicial District.

The motion was not agreed to.

On motion of Mr. M. E. AMES, the Article was laid upon the table.

Mr. ROLETTE moved that the Convention adjourn.

The motion was not agreed to.

COMMITTEE OF CONFERENCE.

Mr. GORMAN. I will state to the Convention that I have been informed that the Committee of Conference have completed their report and that we shall soon have it before us.

Mr. STREETER. We have been informed of the same thing nearly every day for the last three weeks.

Mr. SETZER. I move that the Committee be discharged.

Mr. FLANDRAU. It seems to me there is a desire manifested here to kick over everything looking to an agreement between the two bodies sitting in this Capitol. This Committee have been laboring assiduously for the last two weeks to bring about what we all profess to desire to have accomplished. They have now

completed their report and ask us either to ratify or reject it. I trust that gentlemen will act with a little coolness, a little deliberation, a little like men of sense and not like school boys, and not after we have appointed a Committee to meet a like Committee appointed by the Republicans, and after that Committee, under our order, has labored faithfully for two weeks, recall them without giving them an opportunity to present their report at all. I hope we shall not treat the Committee with that disrespect. I seems to me, if there were no other reason for receiving their report, we ought to receive it as a matter of respect to them.

Mr. SETZER. I am perfectly willing that this matter should be left to the good sense of the Convention. I make the motion as one due to the dignity of the Convention. The Committee have not obeyed the order of the Convention adopted a day or two since requiring them to report immediately. And now, if I understand the nature of the report they are about to make, they have agreed upon an apportionment which is unfair and one-sided in every respect. They have cut down the number of inhabitants in the most populous counties in the Territory simply because they are Democratic. They have adopted an apportionment which, in my opinion, will give a majority of both branches of the Legislature into the hands of the opposition.

Mr. FLANDRAU. If their report is unsatisfactory to this Convention, it will be for the Convention to amend it. I do not understand the gentleman to object to their report except in one particular. Now, I ask if the Convention is going to reject a whole Constitution reported by this Committee, simply because it is unsatisfactory in a single clause.

Mr. MEEKER. I call the attention of the Convention to the fact that in acting upon this Schedule we have decided what is the wish of the Convention. The Schedule to be reported by the Committee of Conference differs materially from the one we have just perfected. I am in favor of giving this Committee a reasonable time to report, but at the same time I am in favor of the Convention adhering strictly to the Schedule which it has adopted.

Mr. EMMETT demanded the yeas and nays on the motion to discharge the Committee.

The yeas and yeas were ordered.

On motion of Mr. FLANDRAU, the motion to discharge the Committee was laid on the table.

Mr. ROLETTE moved that the Convention adjourn.

The motion was not agreed to.

REPORT OF THE COMMITTEE OF CONFERENCE.

Mr. SHERBURNE. The Committee of Conference are prepared to report in part to this Convention. Their Report embodies substantially the whole Constitution. I wish the Convention to understand precisely the position in which the Committee are placed. They have agreed entirely upon their whole Report, and that which yet remains to be submitted involves the mere matter of mechanical labor. They have been at work as assiduously as they could, for the last twelve hours, in perfecting a Constitution to be submitted to the Convention. Gentlemen will understand that a good deal of labor has been necessary, in order to perfect the matter referred to us. I will state that every proposition has been adopted substantially, from beginning to end, from our Constitution. I do not know of a single change to which any gentleman can reasonably object. We have changed the method of amending the Constitution to some little extent, but it was by the unanimous consent of the Committee. Some changes have also been made in the Article on Miscellaneous subjects and in the Schedule, but they have all been agreed on by the unanimous vote of the Committee, and only a little mechanical labor is now required to perfect our Report.

Mr. MURRAY. I move that the report of the Committee be laid on the table, and ordered to be printed for the use of the Convention.

Mr. GORMAN. I trust that course will not be taken. The Report, as I understand, is now prepared, and every member can see as it is read what changes have been made. We can then deliberate upon it calmly and dispassionately. If we pursue the course suggested by the gentleman, it cannot be printed before some time to-morrow, and it will be impossible for the Convention to adjourn during the present week. I understand that there are six or seven Articles which have been adopted almost word for word from our Constitution. They are reported in almost the precise form and the exact substance of what we have already adopted; and, surely, gentlemen need not postpone the consideration of these Articles. We can go on and adopt them to-night, and by that time the remaining portion of the Report will be ready. There can be no necessity for any debate upon them, unless gentlemen wish to reverse the former decisions of this Convention. I hope, therefore, the motion to postpone the consideration of this Report will not be agreed to. I call for the yeas and nays upon the motion.

Mr. MURRAY. I want to have the thing understood. The gentleman says our Constitution has been before the Committee of

Conference and has been reported back by them without much alteration. Now, sir, I understand that only the original drafts by our Committees have been before that Committee. If so, we have made a great many amendments, and the Constitution reported back by them is not one which has been adopted by this Convention.

Mr. GORMAN. The Constitution which has been before that Committee is our Constitution, as it has been engrossed. It is true, that since these Articles have been reported back by the Committee on Phraseology and Revision, you have had them under consideration, but only a very few amendments have been made and those few unimportant. Now, sir, I say again that this Constitution has been reported back substantially as reported by our Convention; and I appeal to gentlemen, if they desire to get home—if they desire to make no further delay, to take up this Report and pass upon it as far as it has been made. It will give rise to no debate, and we can get through with it to-night.

Mr. BAASEN. I seconded the motion to lay the Report on the table in order to have it printed. I differ very essentially with the gentleman from Ramsey about certain amendments which he calls immaterial. If changes have been made of which I have been unofficially informed, I can never vote for the Constitution which the Committee reports.

Mr. MURRAY. I think it is very extraordinary that my colleague (Mr. GORMAN) should take the view which he has expressed in reference to this matter. A member of the Committee of Conference comes in here and reports half-a-dozen Articles, but we have no indication of what is to follow. We do not know what is to become of the Schedule. There has been no official report—no finality about the matter. I am opposed to disposing of the matter in this hasty manner. Let the Report be printed and lie over until to-morrow. It is obvious, that Committee cannot have had before them the material amendments made yesterday and to-day in this Convention. The Committee have, I presume, been supplied with these Articles as originally introduced here before they were amended. It is utterly impossible to act understandingly on this Report without even having seen it in print, upon a single reading. I want to know myself what this Committee has been doing. I shall not take it for granted that what they have been doing is right. I think it is but justice to the Committee, as well as to the Convention, that this Report should lie over and be printed.

Mr. SETZER. I rise to a question of order. I understand the Chairman of the Committee to state that this Report proposes amendments to the Constitution which has already been adopted by

this Convention. It is admitted that these Articles have been ordered to be enrolled, and have been referred to the Committee on Enrollment for that purpose. I submit, therefore that they are not subject to amendment.

The PRESIDENT. The Chair will state that the report of the Committee of Conference is not yet before the Convention, and that the point of order cannot be made until after the report of the Committee shall have been read.

Mr. CURTIS. I wish to make one single remark. The gentleman from Ramsey, (Mr. MURRAY,) argued that the Committee had not been informed of the action of the Convention. Now, sir, I understand that a copy of every Article, with all the amendments, has been before that Committee as soon as it has passed this body. Not a single amendment has passed the Convention that they have not had *verbatim et literatim.*

Mr. SHERBURNE. I wish to say to the Convention that the Committee have endeavored to keep themselves informed as to the action of both wings of the Constitutional Convention. While they have endeavored to agree among themselves as to what was proper and right, they have, at the same time, kept themselves informed of what was being done, and have endeavored to conform to the wishes of the two Conventions, as far as they could. Now, sir, I am not disposed either to favor the motion of my colleague, (Mr. MURRAY,) or to oppose it, because I do not stand here to give any direction as to the action of the Convention ; but I do say that there is no such change in the Constitution which has passed this Convention, as need, in the slightest degree, disturb the equanimity of our friends. There is no change of importance. It is true we have changed phraseology ; we have changed sentences ; we have sometimes stricken out one word and put in another, for the purpose of compromise ; but I undertake to say that no vital principle—no one which a Democrat who looks to principle alone would consider as more than a cypher, has been sacrificed. Our friends upon the other side—and I give them credit for it—have adopted our Articles almost altogether. It was magnanimous in them—I do not say it tauntingly. I repeat, sir, that there is nothing in this report which need frighten any member of this Convention.

The question was taken on Mr. MURRAY'S motion, and the report was not laid upon the table.

Mr. FLANDRAU moved that the report be taken up and read, section by section.

The motion was agreed to, and the Secretary proceeded to read the report of the Committee.

Mr. SHERBURNE presented the final report of the Committee, which was also read.

Mr. GORMAN moved to substitute the report of the Committee of Conference for the Constitution as adopted by the Convention.

Mr. SETZER. I rise to a question of order. This Convention has adopted the Constitution with the exception of one Article, and has ordered it to be enrolled. It has been referred to the Committee on Enrollment, and is not before the Convention. I submit, therefore, that it cannot be amended.

The PRESIDENT. The Chair overrules the question of order. The Chair decides that inasmuch as the Convention had not ordered the entire document to be enrolled, it is still within their power to substitute the report of the Committee.

Mr. SETZER appealed from the decision of the Chair, and demanded the yeas and nays on the appeal.

The yeas and nays were ordered.

After debate on the question of order, the question was taken on the appeal, and resulted yeas 31, nays 7, as follows :

YEAS—Messrs. A. E. Ames, M. E. Ames, Armstrong, Butler, Becker, Burns, Brown, Curtis, Chase, Davis, Emmett, Flandrau, Gorman, Holcombe, Kingsbury, Murray, Meeker, McGrorty, McMahan, Norris, Nash, Prince, Sanderson, Sherburne, Stacey, Shepley, Sturgis, Streeter, Swan, Tuttle and Warner—31.

NAYS—Messrs. Baasen, Gilbert, Gilman, Setzer, Taylor, Tenvoorde and Wait—7.

So the decision of the Chair was sustained.

Mr. BAASEN moved that the Convention adjourn.

The motion was not agreed to.

Mr. CURTIS. I move to strike out that portion of the report of the Committee of Conference relating to the organization of Judicial Districts, and to insert that agreed upon by our Convention. I have reason to believe that if this amendment is adopted it will be acceded to in the other end of the Capitol. The effect of the division as made in this report will be to crowd four-fifths of the whole business of the Territory into one Judicial District. I believe the whole thing is wrong, and I, therefore, make the motion to amend.

Mr. GORMAN. I would like to know if this report has been received by the Convention ?

The PRESIDENT. It has.

Mr. GORMAN. Then it must lie on the table and be printed like other reports.

The PRESIDENT. The Chair would inform the gentleman that the rule to which he refers has been repealed.

Mr. SHERBURNE. I hope the amendment of the gentleman

from Stillwater will not be insisted on. I am willing to state to him that I made in Committee the same proposition which he has now made, but the majority of the Committee disagreed with me, and reported these Judicial Districts as they stand before us. Now, Mr. PRESIDENT, if we commence amending this report, there will be no end to the sittings of this Convention, and we shall never be able to come to a conclusion, because the members of this Convention will disagree to one proposition, and those at the other end of the Capitol to another, and if each body is disposed to insist upon its own peculiar notions, we may sit here until the end of the year without coming any nearer to the close of our labors. I appeal to the gentleman, therefore, if he is desirous of adopting a Constitution which will meet a favorable reception with the people of the Territory, to withdraw his amendment and allow us to adopt the report in the precise language in which it stands.

On motion of Mr. A. E. AMES, the Convention, at 8 o'clock, adjourned.

FORTIETH DAY.

FRIDAY, August 28, 1857.

The Convention met at nine o'clock. A. M.

Prayer by the Chaplain.

The Journal of yesterday was read and approved.

ABSENT MEMBERS PERMITTED TO SIGN THE CONSTITUTION.

Mr. MEEKER offered the following resolution which was by unanimous consent considered and agreed to, viz :

RESOLVED, That any member of this Convention who may not be present to sign the Constitution now in the process of completion, may sign the same in the office where it may be lodged for safe keeping, at any time after the adjournment *sine die*.

CALL OF THE CONVENTION.

On motion of Mr. A. E. AMES, a call of the Convention was ordered, and the following members found absent :

Messrs. Baker, Bailly, Brown, Day, Gilman, Holcombe, Kingsbury, Sherburne, Shepley, Streeter, Tenvoorde, Tuttle, Wait, and Wilson.

On motion of Mr. CURTIS, the members composing the Committee of Conference, were excused for ten minutes.

The Sergeant-at-Arms was directed to report the absent members in their seats.

On motion of Mr. A. E. AMES, further proceedings under the call were dispensed with.

PRINTING OF THE DEBATES.

Mr. M. E. AMES. I suppose it is the intention the Convention to have our proceedings, as officially reported, printed and bound for the use of the future State. As no provision on the subject has been made, I offer the following resolutions.

RESOLVED, That the President of this Convention be directed to procure, on such terms as he may deem just and reasonable, the publication of 2000 copies of Debates and Proceedings of the Constitutional Convention, as taken by the Official Reporter, including the Organic Act of the Territorial Legislature relative to this Convention, and an abstract of the vote of the people on the adoption of the Constitution, with a full and complete index to the same, to be paid for as a part of the expenses of this Convention, provided that said copies shall be furnished subject to the order of the President on or before the first day of January, 1858.

RESOLVED, That five copies of said Debates and Proceedings be furnished for the use of each member and officer of this Convention, and that the remaining copies be deposited in the Library of the Territory or future State.

The resolutions were adopted.

ADDITIONAL PAY TO REPORTER.

Mr. GORMAN. Under the circumstances in which we are placed, in reference to financial matters, I ask the consent of the Convention to offer the following resolution :

RESOLVED, That in making up the accounts with the Official Reporter, the President of this Convention be instructed to allow such additional sum as may be necessary to realize in cash, the full amount designated in the contract with said Reporter without discount.

No objection being made, the resolution was received and adopted.

REPORT OF THE COMMITTEE OF CONFERENCE.

The Convention then resumed the consideration of the report of the Committee of Conference, the pending question being on an amendment submitted yesterday by Mr. CURTIS to the Article on the Judiciary Department.

Mr. CURTIS. I understand that the Committee of Conference have agreed upon an amendment which will obviate the necessity of the amendment which I offered yesterday. I therefore withdraw that amendment.

Mr. SHERBURNE. The Committee on Conference on both sides this morning agreed to an amendment

which I think will meet the wishes of gentlemen in this body. They have so amended their report on Judicial Districts as to constitute the county of Ramsey a separate Judicial District.

Mr. GILMAN. We have not the report of that Committee in print before us, and cannot tell what we are acting on. If I understand the gentleman, however, I will state that the report is not satisfactory to me. I therefore move to amend the fourth Judicial District as reported by the Committee of Conference, by striking out the counties enumerated in the same, and inserting the following counties, to wit:

"Anoka, Sherburne, Benton, Morrison, Crow Wing, Mille Lac, Tod, Cass, Pembina, Stearns, Wright, and Meeker counties."

Mr. SHERBURNE. I will state that the Committee have not changed their report as offered yesterday, in any essential particular, except by making Ramsey county a separate Judicial District. They have made one or two verbal amendments.

Mr. GORMAN. Is this additional report of the Committee of Conference before the Convention?

The PRESIDENT, It is. The Committee have modified their original report as the Chairman has stated.

Mr. GORMAN. Well, sir, this matter might as well be settled right here. We have reached a crisis in our proceedings, and it will be well for us to understand what we are doing before we go further. If the report of the Committee of Conference is to be amended by this Convention, we may safely calculate on sitting here for weeks before we can finish our labors. If we are to open the door by the adoption of a single amendment to this report, no one can predict when we shall end. If we wish ever to bring our labors to a close, we had better have this report read as often as gentlemen may desire, and explained by the members of the Committee if it is not understood, so that members may know on what they are voting, and then either adopt or reject it as a whole. Sir, I wish to impress upon the minds of the members of this Convention what will be the result of amending this report, before the first breach is made. It will subject us to a series of negociations with the body sitting in the other end of the Capitol, which can result in no good, and will most likely result in the defeat of the whole thing. I submit to gentlemen that even if there are clauses in the Constitution raported by this Convention which are not satisfactory in every respect, it is better to bear the evils, so long as they are bearable, rather than to undertake to make changes which will inevitably result as I have stated.

If we make amendments, gentlemen in the other end of the Capitol have the same right to amend provisions which are not

satisfactory to them, and the result will be that the whole thing will be rejected, and we shall have to have another Committee of Conference. I again earnestly hope that gentlemen before they vote for this amendment will calmly ask themselves, how much of their own individual opinions they can yield for the good of the whole? Is not the sacrifice you make in one point made up by the gain in another, and is not the report taken as a whole as satisfactory as any which can be framed? Let gentleman weigh these considerations well, before they act.

Mr. TAYLOR. We do not want to submit any Constitution which is the joint work of the two bodies.

Mr. GORMAN. My friend from St. Paul has not been much in attendance on the sittings of the Coustitution for about a week, and many good things have been done since he left.

Mr. PRESIDENT, I repeat, that the action of the Convention on this amendment, involves a crisis for which gentlemen may as well be prepared. Now is the precise time when we must decide, whether we will bring our labors to a close within a reasonable time, or by opening a breach in this report, launch ourselves out at sea without chart or compass. For myself I should very decidedly prefer that many things contained in this report were otherwise, but if by sacrificing my own individual opinions, I can secure a great public good by the adoption of a Constitution which will meet the wants of our future State, and avoid the difficulties which will otherwise inevitably occur from the state of things in which we find ourselves, I shall be satisfied. From the candid consideration which the matter has received in the other wing of the Capitol, I am led to believe that they are sincere in their desire to harmonize upon one Constitution.

Under these circumstances it seems to me that we had "better "bear the ills we have than fly to others, that we know not of."

Mr. BAASEN. I cannot well understand the position taken by the gentleman from Ramsey, (Mr. GORMAN,) upon this question. A Committee has been appointed to try to bring about a union of the two Conventions, upon one Constitution. That Committee has agreed upon a draft of a Constitution, and now they want us to adopt it *point blanc* without discussion or alteration. That is the proposition of the gentleman from Ramsey. Now sir, if every interest in this Territory had been represented in that Committee, I would have said nothing on the subject. If we had been permitted to consider and act upon the different portions of the Constitution, as the Committee progressed in its preparation, I should have been satisfied; but sir, when the Convention ordered the Committee to

report, they refused to obey the order, and now we have the entire report sprung upon us, without time to consider it or either to have it printed, and we are asked to take it as it is, on trust. Mr. PRESIDENT, I do not think that all the interests of this Territory have been represented upon that Committee. I do not think the interests of the foreign born citizens have been provided for by them. Their interests have been entirely neglected in this report, and at the proper time, I shall move to change several points in the report.

Mr. SHERBURNE. If we are going into a general discussion, and are to amend this Constitution as reported by the Committee, there will be no end of it. We may as well abandon the whole matter at once, as for each individual to attempt to express his opinions and make his mark upon each Section. I stated yesterday, and I repeat now, that we have made no material change in the Constitution adopted by this Convention. With one or two exceptions, we have adopted substantially the same provisions. If we undertake to go into a general system of amendments, we have got to have a series of Committees, and we shall entail upon ourselves troubles that we can never end.

Mr. SETZER. Before the question is put, I wish to make a few remarks in reply to the gentleman from St. Paul, (Mr. GORMAN.) He asks the Convention to adopt the whole report of the Committee without amendment and without debate. Sir, this Committee has followed the doctrine which was laid down by a distinguished gentleman of this Convention in Democratic caucus that since the Black Republicans have sacrificed their principles, we can afford to sacrifice the offices. The apportionment adopted by that Committee will give nigger worshippers the Legislature and two United States Senators. The gentleman asks if we cannot sacrifice our individual opinions for the good of the whole. Sir, I am a Democrat for the good of the whole. Gentlemen take a good deal of credit to themselves for having sunk all partizan feeling in this matter. For one, I will not sink my partizan feeling, nor abandon the duty which I owe to the country, for the preservation of the Union, by pandering to any party who are trying to dissolve the Union. This is the position which I take and this is the highest good which I contend for. A portion of this Convention have contended from the beginning that the true policy of the Democratic party was to submit two Constitutions to the people, to make a clear issue before them and to express the fanatical ideas of the men who are assembled in a different Convention in this Capitol. If we abandon this proposition, we surrender the whole field to them. As I have already remarked, the apportionment laid

down in this report increases the population of every Republican County, and cuts down the population of every Democratic County, and that I am not disposed to do for the sake of submitting one Constitution. Sir, the Republicans would not have been so ready to yield up their principles and everything they have to stand upon if they were not sure the loaves and fishes would fall to their share. They can afford to sacrifice something for the sake of obtaining the Legislature and two United States Senators. I say again that this camp meeting, as they have been called in the other end of the Capitol would never have consented so utterly to subvert all manliness and decency by giving up every position they have taken without compensation. The gentleman has well remarked that we have reached a crisis in our proceedings. We stand upon the brink of a precipice. If the report of this Committee is adopted, then farewell Democracy in Minnesota; we ourselves have dug the grave that is to bury us.

Mr. MEEKER. I will not detain the Convention for more than a minute by the remarks which I shall submit. I was opposed originally to this Committee of Conference and voted against the resolution for raising it. But, sir, in all opposition bodies like these, there must be a spirit of compromise manifested, or no proposition can ever be united on or carried into effect. I believe I could make a Constitution myself that would suit me better than any Constitution framed by fifty other men. But, sir, I am not so innocent as to suppose that in a Convention like this I can bring the views of all the members to square with my own peculiar notions. The gentleman from Washington has laid great stress upon the results which have been effected by this Committee of Conference. Now, sir, as I understand it, the apportionment adopted by that Committee is almost identically the apportionment agreed upon by this Convention, and assented to by the gentleman from Washington. I am satisfied that the Constitution reported by this Committee is the best we can get, and I hope it will be adopted without amendment.

Mr. GILMAN demanded the yeas and nays upon his amendment, which were ordered and the question being taken, resulted yeas 20, nays 30, as follows:

YEAS—Messrs. Becker, Baasen, Curtis, Cantell, Gillman, Jerome, Leonard, Murray, McGrorty, McFetridge, Nash, Rolette, Setzer, Shepley, Sturgis, Taylor, Tenvoorde, Vasseur, Wait, and Warner—20.

NAYS—Messrs. A. E. Ames, M. E. Ames, Armstrong, Butler, Barrett, Burns, Burwell, Brown, Chase, Davis, Day, Emmett, Flandrau, Gilbert, Gorman, Holcombe, Kingsbury, Kennedy, Keegan, Lashelle, Meeker, McMahan, Norris, Prince, Sanderson, Sherburne, Stacey, Streeter, Swan, and Mr. President—30.

So the amendment was not agreed to.

Mr. BAASEN moved to strike out Section 1 of the report on the Elective Franchise, and to insert the Section as ordered to be enrolled by the Convention as follows :

Sec. 1. Every male person of the age of twenty-one years or upwards, belonging to either of the following classes, who shall have resided in this State for four months next preceding any election, shall be entitled to vote at such election, in the election district of which he shall at the time have been for ten days a resident, for all officers that now are, or hereafter may be, elective by the people.

1st. White citizens of the United States.

2d. White persons of foreign birth, who shall have declared their intention to become citizens, conformably to the laws of the United States upon the subject of naturalization.

3d. Persons of mixed white and Indian blood, who have adopted the customs and habits of civilization.

4th. Persons of Indian blood residing in this State, who have adopted the language, customs and habits of civilization, after an examination before the District Court of the State, in such manner as may be provided by law, and shall have been pronounced by said Court capable of enjoying the rights of citizenship within the State.

Mr. B. said. My object in making this motion has particular reference to that provision in the report which requires white persons of foreign birth to reside in the United States one year, and in the State four months, before they shall be allowed to vote. I consider that this is making an invidious, unjust and anti-Democratic distinction between white men. I cannot understand the principle upon which you provide that one class of men, coming from one section of country outside the State shall be voters after residing here for a certain time and then require a longer time before another section of country shall be allowed the same privilege. I presume gentlemen will say that people coming from Europe are not so well educated and do not understand your institutions and system of government as well as those who have resided in the United States. I deny the truth of the assertion. In the old country most of the governments are constitutional monarchies, and with the exception that the chief magistrates are hereditary, they differ very little from our Republican government. For that reason, I cannot see why men coming from Europe should not understand the government of the country. If you say they are not so well educated, and cannot understand, I answer that in Europe the people are as well educated as in the United States. In some of the old countries, as, for instance, in Prussia, their system of common schools, which is the basis of education, is far superior to any common school system in the United States. I say, therefore, that foreigners coming here from European countries are as well edu-

cated and have as good understanding as those born in the United States, and I do not see why you should, in your Constitution, make a distinction between them and native born citizens. Why should they be made by Constitutional provision an intermediate class between negroes and white men?

Now, sir, the object of any restriction at all upon the right of suffrage is, as I understand it, to keep away from our elections the floating population who do not intend to reside amongst us. For that reason, it is very well to prescribe that all persons shall reside for a certain time in the State before they acquire the right to vote. It may also become necessary for them to reside here for a certain time in order to become acquainted with our peculiar institutions. The length of time, you have got to determine for yourselves. You may fix it at four months, six months, one year or five years, for that involves no principle, but to make a distinction between white men is invidious, and I consider it anti-Democratic. Sir, men coming here from South Carolina or from Connecticut, are as ignorant of the peculiar institutions of our future State as those coming from Europe. Why, then, make a distinction? I can see no difference between a foreigner coming from a distant portion of the United States and one coming from Europe, so far as their knowledge of our institutions is concerned. I hope the amendment will be adopted.

Mr. TENVOORDE. I desire to say that I am just as much a friend to the foreign-born citizens of the United States as the gentleman who has just spoken, but, sir, I cannot understand how the gentleman can say that there should be no distinction between American and foreign-born citizens. One has lived here under the institutions of the country all his life; the other has lived abroad, and sir, I think the requirement that foreigners shall reside in the country five years before they shall become citizens of the United States, is not only just, but a very liberal one. I should have been well satisfied if the Convention had fixed two years instead of one. I think the provision contained in this report is a very liberal one towards persons coming here from foreign countries, and I am in favor of leaving that report as it stands.

Mr. FLANDRAU. The gentleman who offered the amendment speaks of creating a distinction between foreign and native born citizens. Now sir, that is a distinction, if the gentleman pleases to call it such, which has always existed in all the branches of our government, from the President of the United States down to the elector. It is required in every instance that the party should have identified himself with the country and its institutions before he

is eligible to any of these positions. The President of the United States must be a native-born citizen. A Senator of the United States must have been a citizen for nine years, requiring a fourteen years residence in the country. A member of Congress must have been a citizen five years, requiring a residence of ten years in the United States, and yet, sir, I have never heard a single objection urged to this feature of our institutions, by a foreigner or otherwise. The proposition is necessarily involved and is admitted by everybody that there must be a perfect identification with our institutions and knowledge of our government before a party can be qualified to assist in administering it.

Well now, sir, upon the subject of electors, I do not know of a single instance, except it may be the State of Wisconsin, in which some residence is not required, some distinctive time for a person of foreign birth to become entitled to the full privileges of citizenship. The distinction complained of by the gentleman from Brown, (Mr. BAASEN,) is that we require a residence of one year for a person of foreign birth, within the United States, and four months within the State before he can be a voter. That he claims, is an invidious distinction. Now, it does seem to me that there is good reason for the distinction merely in the fact that a person born in the country is presumed to be in possession of knowledge which it will require a foreigner one year or more to possess himself of, and therefore, what the gentleman speaks of as a distinction is merely a provision which places them both on a par. I do not pretend to say that persons coming here from abroad are not as well educated as the generality of American born citizens, but sir, the latter class have enjoyed advantages in respect to acquiring a knowledge of our institutions by living under them all their lives, than a foreigner can possibly have done, and they are, therefore, better educated as Republicans, as Americans and as Democrats than parties who have been born and educated under a monarchy. I do not believe our foreign born citizens generally desire more liberal provisions than are provided in this report. I am very much gratified to know that there are a large number of gentlemen members of this Convention of foreign birth, and I would like, before this question is decided, that these gentlemen should individually express their opinions upon this point. I am satisfied that there will be almost an entire unanimity of opinion in favor of the restriction proposed in the report of the Committee.

Mr. BAASEN. I would like to inquire of the gentleman what benefit it can be for a foreigner to riside one year in Alabama or Florida and then come here? How much further is he advanced in

his knowledge of our peculiar institutions than he would have been if he had come directly here from Europe?

Mr. KEEGAN. I am opposed to the amendment of the gentleman from Brown. I think the limitation provided for in this report is not too great. I concur entirely in the opinions expressed by the gentleman from Nicollet, (Mr. FLANDRAU.)

Mr. M'GRORTY. I do not know that I can say that I agree with any of the gentlemen who have spoken upon this subject, but I certainly do not agree with the gentleman from Brown, (Mr. BAASEN.) I believe that it is no injustice at all to foreigners to make their term of probation one year. In many of the States they require a residence of one year for natives of the United States, emigrating from one State into another. Then sir, we certainly cannot say that it is making a distinction unjustly between foreign and native born citizens, to require that foreigners shall have resided in the country one year before they are allowed to vote in the State of Minnesota.

The gentleman from Nicollet stated that he did not believe persons born in a foreign country could be as well acquainted with the institutions of the United States, as though they had been born here. Now, I differ with the gentleman in that statement. I think they have a better opportunity of judging of the difference between a monarchial and republican form of government than those who have been born and who have lived here all their lives, and know nothing of any other form of government than a republic. But sir, I do not wish to debate the matter. I think one year is at least a sufficiently short time for foreigners to reside in the United States before they are allowed to vote.

Mr. CURTIS. I merely wish to say that in my judgment the difference between a native born citizen and a foreigner in this report is not one year. A person removing here from any other State is required to reside here four years before he can vote and the difference is, therefore, only eight months.

Mr. SHERBURNE. I wish simply to state that in nearly all the older States, native-born citizens are required to reside as much as one year in the State before they are allowed to vote. I know that such is the fact in the New England States; so that gentlemen will see we have only placed the same restriction upon foreigners which in most of the States is placed on native-born citizens.

Mr. BAASEN. The gentleman does not understand my argument. I have not objected to the length of time which persons are required to reside in the State. It is the distinction made

between the two classes of voters, to which I object. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered, and the question being taken, resulted yeas 7, nays 42, as follows :

YEAS—Messrs. Baasen, Murray, McMahan, Nash, Setzer, Shepley and Taylor —7.

NAYS—Messrs. A. E. Ames, M. E. Ames, Armstrong, Butler, Becker, Barrett, Burns, Burwell, Brown, Curtis, Cantell, Chase, Davis, Day, Emmett, Flandrau, Gilbert, Gorman, Holcombe, Jerome, Kingsbury, Kennedy, Keegan, Leonard, Meeker, McGrorty, McFetridge, Norris, Prince, Rolette, Sanderson, Sherburne, Stacey, Sturgis, Streeter, Swan, Tenvoorde, Vasseur, Wait, Warner and Mr. President—42.

So the amendment was not agreed to.

Mr. WARNER. I have simply one amendment to offer, and shall make no other objection to the report of this Committee. I see that in the Fifth Judicial District the County of Rice has been stricken out, and has been attached to the Third District. I move that it be stricken from the Third Judicial District and attached to the Fifth. I would state my reasons, but as the Convention has resolved not to adopt any amendments to this report, I presume it would be useless.

The amendment was not agreed to.

Mr. STURGIS moved to strike from the Fourth Judicial District the County of Hennepin, and insert the same in the Second District.

Mr. GILMAN. I shall vote for that amendment. The Fourth Judicial district, as constituted in this report, is about 700 miles long, and I would like to have it reduced a little. A majority of the voters in that District are in the Southern portion, and the Judicial officers will of course be elected from the southern portion. They are required to reside in the District, and people living in the northern portion wishing to do business in that Court will have to travel all that distance. The whole expense will come out of the persons having the business to do. Of course the Attornies will not object, for their expenses are paid. But, sir, I say that this apportionment of the Judicial Districts is not for the benefit of the people, nor is it Democratic.

Mr. PRESIDENT, I do not feel myself bound by the report of that Committee. We are not bound to treat with the body sitting in the other wing of the Capitol, and their report has no more authority here than if the Committee had been appointed by the President of the United States to confer with a Committee appointed by a foreign power. For one I am not prepared to give my assent to that report, and I shall vote for the amendment.

Mr. FLANDRAU. I desire to move an amendment to the amendment, which I think will be acceptable to the gentleman who offered it. I shall urge its passage, and carry it if I can. I move also to insert the County of Dakota in the Second Judicial District. I urge it for the reason that we would then have in one Judicial District contiguous territory comprising three Counties, which will necessarily have a very considerable amount of Judicial business each. They are convenient of access, and will require but little travel for Judges or Attornies. It is a convenient District, and one over which a Circuit Judge could preside with one-half the labor which would be required in the District as constituted in this report. Now, I do not believe in imposing upon the country Districts a section of country which will require the Judges to be continually on the go, and confine the central District here to the County of Ramsey, where there will be no more Judicial business to be done than in the ten or a dozen adjacent Counties in which the Judges will be required to perform more labor and to travel continually at their own expense.

Mr. BROWN. I think the proposition made by the gentleman from Nicollet was made in Committee—that the District should be composed of the Counties of Ramsey and Dakota; but, sir, I think no one acquainted with the business required to be done in these two Counties would not pronounce it out of the power of any one man to perform the duties devolving upon the Judge for that District. It is true, sir, that these Districts are large, but I think when gentlemen take the whole Territory into consideration, they will find that it cannot be divided into Districts which will give a more equal distribution of labor and travel than is provided for in this report, with the exception of the County of Ramsey. I believe myself that the County of Ramsey will have as much legal business to do as any other District in the Territory or State, but it will not involve as much travel. There is another objection to this amendment, which I think will satisfy the gentleman himself. The Judges do not go into office until about the time when the Legislature will meet in December. Then, when they come to look over the Districts, and look over the business to be performed in each, if it is found that there is an unequal distribution of labor and travel, the Legislature may make such alterations as will cover the difficulties complained of. I think the apportionment we have made is as good as any we can get, and I hope no change will be made by the Convention.

Mr. SHERBURNE. I suppose there are twenty gentlemen in this Convention who would combine the different Counties in the

Territory into Judicial Districts, and each one make a separate and distinct apportionment to suit his own views. Now, Mr. PRESIDENT, the Committee of Conference have made this apportionment as equal and just as they could frame it, and as it is but a short time to the meeting of the Legislature, which will have full control over the subject, I hope that no change will be made. I do not rise to make any remarks, but I do hope that gentlemen will consider the situation in which we are placed. Of course each gentleman will have an opinion of his own. There is nothing extraordinary or unreasonable in that. But, sir, we shall never finish our labors if each gentleman insists on carrying his individual opinion into this report.

Mr. STURGIS. I do not agree with gentlemen in respect to its being an easy matter to change this apportionment at any time. If I am not mistaken, these Judges are be to elected for seven years in each District, and I do not understand how the change is to be made so easily as some gentlemen seem to think.

Mr. GORMAN demanded the yeas and nays on the amendment to the amendment.

The yeas and nays were not ordered.

The amendment to the amendment was not agreed to.

The amendment was also rejected.

ADDITIONAL PAY OF MEMBERS.

Mr. GILMAN, by unanimous consent, introduced the following resolution:

RESOLVED, That in making up the expenses of this Convention, the President and Auditing Committee, be instructed to allow to each member and officer of the said Convention, such additional sum as may be necessary to realize in cash the full amount of their *per diem* and mileage.

Mr. HOLCOMBE demanded the yeas and nays, which were not ordered.

The resolution was adopted.

SCHEDULE.

Mr. McGRORTY moved to amend the Schedule reported by the Committee of Conference so as to give the Second Senatorial and Representative District, Four Senators, and Seven Representatives, instead of Three Senators and Six Representatives.

Mr. BECKER. I think we have arrived at a point, when some time ought to be allowed for private consultation in reference to this report. I move therefore, that the Convention adjourn until half-past two o'clock.

The motion was agreed to and the Convention at twenty minutes before twelve o'clock M., accordingly adjourned.

AFTERNOON SESSION.

The Convention met pursuant to adjournment.

CALL OF THE CONVENTION.

On motion of Mr. WARNER, a call of the Convention was ordered and the following gentlemen found absent:

Messrs. Baker, Bailly, Faber, Flandrau, Gilman, Nash, Sherburne, Tuttle, and Wilson.

The Sergeant-at-Arms was directed to report the absent members in their seats.

On motion of WARNER, further proceedings under the call were dispensed with.

COMMITTEE OF CONFERENCE REPORT.

The Convention then resumed the consideration of the Report of the Committee of Conference, the pending question being on the motion of Mr. McGRORTY to amend the Schedule.

The amendment was not agreed to.

Mr. MURRAY moved the previous question on the adoption of the Report.

Mr. M. E. AMES demanded the yeas and nays on ordering the main question.

The yeas and nays were ordered, and resulted yeas 31, and nays 15, as follows:

YEAS—Messrs. A. E. Ames, M. E. Ames, Armstrong, Barrett, Burns, Burwell, Bailly, Curtis, Chase, Davis, Day, Emmett, Gilbert, Gorman, Holcombe, Kennedy, Keegan, Leonard, Lashelle, Murray, Meeker, McGrorty, McMahan, Norris, Prince, Sherburne, Stacey, Streeter, Swan, Tenvoorde, and Mr. President—31

NAYS—Messrs. Butler, Becker, Brown, Baasen Cantell, Jerome, Kingsbury, McFetridge, Rolette, Setzer, Shepley, Sturgis, Taylor, Vasseur, and Wait—15.

So the previous question was ordered.

Mr. M. E. AMES called for the yeas and nays on the adoption of the Report.

The yeas and nays were ordered, and the question being taken resulted yeas 38, and nays 13, as follows:

YEAS—Messrs. A. E. Ames, M. E. Ames, Armstrong, Butler, Becker, Barrett, Burns, Burwell, Bailly, Brown, Curtis, Chase, Davis, Day, Emmett, Flandrau, Gilbert, Gorman, Gilman, Holcombe, Kingsbury, Kennedy, Keegan, Leonard, Lashelle, Meeker, McGrorty, McMahan, Norris, Nash, Prince, Sanderson, Sherburne, Stacey, Streeter, Swan, Warner, and Mr. President—38.

NAYS—Messrs. Baasen, Cantell, Jerome, Murray, McFetridge, Rolette, Setzer, Shepley, Sturgis, Taylor, Tenvoorde, Vasseur, and Wait—13.

So the report was adopted.

On motion of Mr. KIGSBURY, the Articles of the Constitution as adopted by the Convention, were directed to be enrolled in following order:

I.—PREAMBLE AND BILL OF RIGHTS.
II.—NAME AND BOUNDARIES.
III.—DISTRIBUTION OF THE POWERS OF GOVERNMENT.
IV.—LEGISLATIVE DEPARTMENT.
V.—EXECUTIVE DEPARTMENT.
VI.—JUDICIAL.
VII.—THE ELECTIVE FRANCHISE.
VIII.—SCHOOL FUNDS, EDUCATION AND SCIENCE.
IX.—FINANCES OF THE STATE, BANKS AND BANKING.
X.—CORPORATIONS HAVING NO BANKING PRIVILEGES.
XI.—COUNTIES AND TOWNSHIPS.
XII.—THE MILITIA.
XIII.—IMPEACHMENTS AND REMOVALS FROM OFFICE.
XIV.—MISCELLANEOUS PROVISIONS.
XV.—SCHEDULE.

On motion of Mr. BROWN, the Secretary of the Convention was directed to inform the Secretary of the body in the east wing of the Capitol, of the adoption of the report of the Committee of Conference.

Mr. BAASEN moved to adjourn.

The motion was not agreed to.

On motion of Mr. GORMAN, the Secretary was allowed to employ any assistance necessary to have the Constitution enrolled by to-morrow.

On motion of Mr. M. E. AMES, the vote by which the Secretary was instructed to inform the Secretary of the body in the east wing of the Capitol, of the passage of the report, was reconsidered and the order so amended as to require the presiding officer of the Convention, to convey the information.

ADDITIONAL PAY OF TERRITORIAL PRINTER.

Mr. MURRAY offered the following resolution:

RESOLVED, That the President and Auditing Committee be instructed to add a sufficient sum to the bill of the Territorial Printer, to make his claim equivalent to cash.

Mr. A. E. AMES demanded the yeas and nays on the adoption of the resolution.

The yeas and nays were ordered, and the question being taken, resulted yeas 16, nays 21, as follows:

YEAS—Messrs. Becker, Burns, Davis, Day, Gilbert, Gorman, Gilman, Kingsbury, Keegan, Lashelle, Murray, Stacey, Shepley, Sturgis, Taylor, Warner—16.

NAYS—Messrs. A. E. Ames, Armstrong, Butler, Bailly, Brown, Curtis, Chase, Emmett, Holcombe, Kennedy, Meeker, M'Grorty, Norris, Prince, Sanderson, Sherburne, Streeter, Swan, Tenvoorde, Wait, Mr. President—21.

So the resolution was rejected.

GERMAN TRANSLATION OF THE CONSTITUTION.

Mr. BECKER offered the following resolution, which was agreed to:

RESOLVED, That the sum of $100 be appropriated for translating the Constitution into the German language, and that H. Petgold, of Saint Paul, be employed to make the translation.

COMMUNICATION FROM THE REPUBLICANS.

The PRESIDENT laid before the Convention the following communication, which was ordered to be spread upon the Journal:

ST. PAUL, Aug. 28, 1857.

To the Hon. H. H. Sibley, President:

I have the honor to communicate that the Convention over which I preside, this day passed the report of the Joint Committee of Conference on the subject of the formation of a Constitution, without any amendment, and also the enclosed resolutions.

Yours most respectfully,

ST. A. D. BALCOMBE, President.

RESOLVED, That the report of the Committee on Conference, as read a third time and passed by this Convention, is hereby referred to said Committee, to be by them carefully compared with the report as adopted in the other body; and that the Committee of Conference be instructed to arrange and number the articles of the Constitution in their proper order, and immediately cause the whole Constitution to be correctly enrolled for its due verification and authentication by this Convention.

RESOLVED, That the President of this Convention communicate the fact of the adoption of the report of the Committee of Conference without amendment, and the passage of the above resolution, to the President of the Convention sitting in the Council Chamber of this Capitol.

SWEDISH AND FRENCH TRANSLATIONS OF THE CONSTITUTION.

Mr. BUTLER offered the following resolution:

RESOLVED, That $100 be appropriated for translating the Constitution into the Swedish language, and that some competent persons be employed, under direction of the President, to effect the translation.

Mr. STURGIS moved to amend the resolution so as to require a French translation to be also made, and adding $100 to the appropriation.

The amendment was agreed to, and the resolution as amended was adopted.

PRINTING OF THE CONSTITUTION.

Mr. CURTIS offered the following resolution, which was adopted.

RESOLVED, That 15,000 copies of the Constitution, when enrolled, be printed under the direction of the Secretary of this Convention, of which 5000 copies shall be printed in the German language, and 2000 in the Swedish language, and 2000 in the French language, and when printed, each delegate shall be entitled to 250 copies of the whole number for distribution.

ENROLLMENT OF THE CONSTITUTION.

On motion of Mr. BECKER, the vote by which the Constitution was ordered to be enrolled, was reconsidered, and the order changed, so as to conform to the action of the Republican Convention, as follows:

RESOLVED, That the Conference Committee be instructed to act in conjunction with the Conference Committee from the East end of the Capitol, in superintending the enrollment of the Constitution as proposed by the resolution enclosed in the communication just received.

PAY OF THE REPUBLICAN CONVENTION.

Mr. GORMAN. I offer the following resolution:

RESOLVED, That if the Auditor and Treasurer of this Territory declines to recognize the organization of the Convention presided over by Hon. St. A. D. Balcombe, that Hon. H. H. Sibley, President, and J. J. Noah, Secretary, sign certificates for such members of that Convention as were elected to the Constitutional Convention; *Provided*, they be presented for such purpose, and to include the printing for that body.

Mr. PRESIDENT, I offer that resolution for the consideration of the Convention, and I trust there will be no objection. I assure gentlemen here that it is offered in a spirit of entire respect to the body sitting in the other end of the Capitol. As I am confident the Auditor and Treasurer will not recognize the warrants of that Convention, I, as one member of this Convention, am in favor of placing their pay upon the same ground as our own. It is only a question of dollars and cents, and I do not apprehend that any of the members of this Convention will hesitate long in settling this whole matter, and leaving this Capitol with at least as much unanimity, as far as dollars and cents are concerned, as we possibly can. I trust the resolution will be adopted with entire unanimity.

Mr. MURRAY. I have but one remark to make. If anything of this kind is to be done, I want the Convention to "go the whole hog," and pay all the members of that body. I do not think we ought to adopt a resolution for the payment of those members, and then require the President of this Convention to pass upon the question as to who were elected and who who were not elected.

Mr. FLANDRAU. It seems to me there are a great many obstacles in the way of the passage of any such resolution at the present time. The gentleman who offered it, from the manner in which he prefaced it, evidently intends it, not as a firebrand to be thrown in, but as a resolution for peace and harmony. Now, sir, I think he is very much mistaken as to the effect any such resolution will produce. It calls upon that body to ignore its own existence, to say that it never had any right to sit, and never possessed any vitality. Now, sir, do you suppose that the gentlemen sitting there are going to consent to anything of that kind? Does any gentleman here suppose that if he were sitting on that floor, he would not regard such a proposition as a personal affront? Sir, in my opinion such a resolution is calculated to destroy the harmony which now exists between the two bodies. The adoption of the resolution will be throwing out a taunt to that Convention, and asking them to give up their whole organization. Sir, I hope that nothing of this kind will transpire, and I make these remarks for the purpose of preventing, if possible, any such disagreeable consequences as may result from the passage of this resolution. Gentlemen in that body say they want nothing, they desire nothing, and I think it will be time enough for us to adopt such a measure when we have ascertained that it is their wish to place themselves in such a position. I think the whole thing is improper and discourteous, and I shall vote against the resolution.

Mr. BAASEN. I object to the resolution upon the ground that I do not believe it is competent for us to draw upon the Territorial Treasury for services which we do not consider to have been rendered in any capacity for which we are authorized to draw from the Treasury. I believe it is a matter to be left entirely with the Legislature. I therefore move that the resolution be indefinitely postponed.

Mr. BROWN. It appears to me that gentlemen look at this resolution in a different light from what I do. It simply proposes that if the Auditor does not recognize the orders drawn upon him by the officers of the other Convention, our officers shall draw orders for their expenses. It will have no effect until the Auditor has refused to recognize their drafts. I think myself that there should be no question about the recognition since the two Conventions have closed their sessions with such harmony. It is but right and proper that these men should receive their pay, and I hope that the resolution will be passed in order to prepare for the contingency which may arise of their drafts not being recognised.

Mr. SHERBURNE. I saw the resolution before it was presented

to the Convention, and I suppose it was presented for the purpose of meeting a difficulty which may arise. The two bodies have agreed upon all the matters which separated them. They have harmonized upon everything which is vital or important, and there is nothing remaining now but a mere matter of dollars and cents. I think that we should make provision for everybody being paid. It is a small matter. I would be glad to pay my proportion out of my own pocket, if there was anything in it. But, sir, I hope gentlemen will not stickle here about a matter of a few dollars. It would perhaps be well enough to make a verbal amendment to the resolution, but I hope it will be adopted.

Mr. SIBLEY. (Mr. M. E. AMES in the Chair.) I do not propose to discuss the merits of this resolution, but there is one part of it which I decidedly protest against and I hope it will not be passed in its present shape. I am not willing, as the presiding officer of this body, to be saddled with the *onus* of deciding which gentlemen have been and which have not been elected to this Convention. If the Convention proposes to pass any resolution of this kind, therefore, I hope it will itself assume the responsibility of deciding who are legally elected and who are entitled to be paid for their services. I believe there are gentlemen there who are not entitled to be paid, who are sitting there without the shadow of right. If it were a mere matter of dollars and cents, I, for one, would not object, but when the resolution comes up in a shape which leaves it with the President of this body to decide who are legally elected members, I think it involves a principle which should be decided by the body itself.

Mr. BAASEN withdrew the motion to postpone indefinitely and moved to refer the resolution to a Special Committee of three.

Mr. M. E. AMES. Mr. President, I now make a motion to amend the motion of the gentleman from Brown, (Mr. BAASEN,) that this resolution with the whole subject, be referred to the Committee of Conference. I do so because that Committee have had the management of all the negotiations which have taken place with the representatives in the other Convention, and because they have conducted them with ability, successfully, and I believe to the satisfaction of this Convention. I make this motion for various reasons, a portion of which have been suggested by the remarks of the gentleman from Nicollet, (Mr. FLANDRAU,) who seemed to think that the passage of this resolution would be little short of an indignity to the gentlemen who compose the other Convention.

Now sir, I may be permitted to express my belief that the gentlemen who offered this resolution, instead of intending it as an

indignity, offered it in no other spirit except that of liberty and conciliation. I believe that he offered it in entire good faith and for a most worthy object. Nevertheless, sir, it may be considered by the Delegates in the other Convention as offensive; they may misconstrue it; they may place a construction upon it which we, as a Convention do not intend in passing it; and therefore I deem eminently fit and proper that it should be referred to the Committee of Conference who have conducted all the negotiations between the two bodies.

Mr. BECKER regretted exceedingly that this subject had been introduced into the Convention. He hoped the gentleman would recollect the action of the Convention early in the session, relative to this Republican body and the recommendation made to the Auditor and Territorial Treasurer upon the subject of their pay. It would be an abandonment of the ground taken by this body to pass the resolution. It would be an endorsement of the validity of a body which we had declared to be revolutionary and without authority of law. It would be better to go before the people upon the question of organization and he hoped the Convention would not abandon the ground it had taken relative to that organization by the passage of such a resolution.

Mr. BROWN could not see how the passage of the resolution would, to any extent, recognize the validity of the Republican organization or compromise the position taken by the Convention relative to that organization.

Mr. MURRAY asked whether there was any arrangement in the Committee of Conference, by which both Conventions were to be recognized by the Territorial Treasurer.

Mr. BROWN replied that if there had been, it would have been reported to the Convention. Many of the men sitting in the other end of the Capitol were legally elected members of the Constitutional Convention and since they had agreed with this body in the formation of a Constitution were in justice, entitled to their pay; and inasmuch as this Convention had early in the session recommended the Territorial Treasurer not to recognize their orders, it was but justice then, that we should now provide some means by which they should be paid. In his opinion, the separate organizations, if both bodies were paid, would prove an economical arrangement. He ventured to say that if both parties had remained in the same Convention, there would not have been two Articles of the Constitution adopted by the first of January next, and the expense would have been double that of both Conventions now.

Mr. FLANDRAU asked whether the gentleman advocated the

payment of the expenses of the other body for printing, reporting and other matters of extra expense.

Mr. BROWN replied, that if all were paid it would still be an economical arrangement.

Mr. CURTIS hoped the members of the other Convention would get their pay in some way, but he objected to this manner of forcing it on them. If the Convention passed this resolution, gentlemen when they went home to their constituents, would have to answer this question: "You have voted to pay these men for what? "For services in a Convention which you have declared to be ille- "gal and revolutionary." Rather than be compelled to answer this question in the affirmative, he would go for the members of this Convention paying them from their own pockets. He could not consent to pass any resolution by which the position of the Convention would be compromised.

Mr. GORMAN said that so far from this resolution compromising the position formerly taken by this Convention, it was directly confirmatory of that position. We had declared them to be an illegal body, at the same time admitting that many of their members had been duly elected members of the Constitutional Convention. As members of the Constitutional Convention, having assisted in the formation of the Constitution which had been adopted, it was but justice that they should be paid. But having adhered to an illegal organization, they had no power of drawing money from the Treasury, and therefore he proposed that their accounts, so far as the legally elected members were concerned, should be audited by this Convention. The resolution was in perfect consistency with the former action of the Convention. It was simply doing an act of justice, and he hoped it would be adopted.

Mr. EMMETT said that the Convention had no legal right to authorize its officers to sign the certificates of the members of the other body. The Convention had only the right to pay for services actually performed in the Constitutional Convention. These members had not served in the Constitutional Convention and therefore we had no legal right to pay them. It would be in the power of the Legislature to make such provision, but not legally in the power of the Convention. If our officers should sign their certificates, the Territorial Treasurer would have no right to allow the accounts, and he had reason to believe that that officer would not allow them.

Mr. A. E. AMES was opposed to the resolution in its present shape, but not opposed to the principle it involved. He would like to have all the legally elected members of the Constitutional Con-

vention paid, and he thought some plan could be devised by which the Convention could properly provide for such payment. He hoped the resolution would be referred to a Select Committee, and if the gentleman would withdraw the motion to refer it to the Committee of Conference, he would make that motion.

Mr. M. E. AMES declined to withdraw the motion, although he had very little hope the Convention would adopt it. It was an admitted fact that most of the members of that body were legally elected members of the Constitutional Convention, that they had assisted in the formation of the Constitution, and that they could not receive their pay without our consent. The question therefore simply resolved itself into this, "Shall they have our consent to be paid, or shall they be sent home to their constituents without their pay?" We had been in conference with them for the last two days; we had repeatedly asked them to unite with us in adopting one Constitution; they had met us in a spirit of compromise, and now he asked the Convention, whether, as honest men, they would say to the other body, "You have helped us to form our constitution, you have done what we asked you to do, now go home without your pay." What would be the effect of such a course? Every man of them would go home and publish to the people of the Territory that this Convention had exhibited a spirit of meanness towards them. It was merely a matter of dollars and cents, and he hoped that as a matter of policy, to say nothing of justice, the resolution would be adopted.

Mr. FLANDRAU asked what would be the result of referring this resolution to the Committee of Conference. The members of that Committee from the other body would say, "Are you in earnest "gentlemen in coming here with such a proposition? Do you "mean to insult us?" He did not wish to have our members of the Committee placed in any such ridiculous position. He did not believe any member of the Republican party would seriously ask such a thing at our hands. If this was a legally constituted Convention, he did not wish to see them compromise the position they had assumed by the adoption of any such measure. He admitted that some of these men were legally elected, but they had staid away from the legally constituted Constitutional Convention, they had not performed the service for which their constituents had elected them, and we had no right to pay them. Gentlemen talked about the duty of the Convention to be liberal. He understood one of the principles of the Democratic party to be economy and no illegal appropriations from the Treasury. These men had organized their Convention for party purposes, they had

incurred extraordinary expenses for the salaries of their officers, for their reporting and for their printing by a partisan press, instead of employing the regularly constituted Territorial printers. Were gentlemen going to place aid and comfort in the hands of the enemy by paying ten or fifteen thousand dollars for these partisan services? He hoped the Convention would consider well before they determined to adopted any such proposition.

On motion of Mr. McMAHAN the Convention at five o'clock P. M., adjourned.

FORTY-FIRST DAY.

SATURDAY, August 29, 1857.

The Convention met at nine o'clock A. M.

Prayer by the Chaplain.

The Journal of yesterday was read and approved.

CALL OF THE CONVENTION.

On motion of Mr. WARNER, a call of the Convention was ordered, and the following gentlemen were found absent.

Messrs. Baker, Burns, Burwell, Brown, Chase, Day, Flandrau, Gilman, Holcombe, Kingsbury, Leonard, McMahan, Nash, Rolette, Sturgis, Swan, Taylor, Tuttle, Wait, and Wilson.

The Sergeant-at-arms was directed to report the absent members in their seats.

On motion of Mr. MURRAY, all further proceedings under the call were dispensed with.

On motion of Mr. MURRAY, the Convention took a recess of a half an hour.

After the recess had expired, the Convention was called to order by the PRESIDENT.

On motion of Mr. DAVIS, the Convention took a further recess of one hour.

After the recess had expired, the Convention was called to order by the PRESIDENT.

INDIAN STATISTICS.

The PRESIDENT announced that he had received the following communication from the Superintendent of Indian Affairs, which communication was ordered to be inserted in the journal:

OFFICE OF NORTHERN SUPERINTENDENCY,
ST. PAUL, August 28, 1857.

HON. H. H. SIBLEY, President of the Constitutional Convention:

Sir,—I have the honor to acknowledge the receipt, through the Secretary of the Convention, of the following resolution of the Constitutional Convention, viz:—

RESOLVED, That the Secretary of this Convention be requested to obtain from the Superintendent of Indian Affairs, an exhibit of the amount of Indian lands within the limits of the proposed State; the number of Indians therein, together with the amount of the annuities paid to them, and report the same to this Convention.

In reply to the same, permit me to state that it affords me great pleasure to communicate, as far as the records of this office will furnish the data, the authentic information you desire. Though, from the fact, that the reservations have not yet been surveyed (with the exception of the Winnebago reserve) and the government surveys have not yet been made of the unceded Indian Territory, renders it impossible to determine the exact amount of Indian lands, as desired by the resolution. The estimated amount, however, will not vary from the following, viz:

Winnebago Reserve	324	square miles.
Sioux of the Mississippi Reserve	3000	" "
Chippewas and Pillagers of the Mississippi, say	700	" "
Unceded Lands lying in the North of the State, East of Red River of the North	10,500	" "
In square miles	14,524	

The number of Indians consisting of Annuity Indians, is as follows, viz:

Winnebagoes	1,866
Chippewas of the Mississippi	2,206
Pillagers and Lake Winnebago Ostrich	2,031
Sioux of the Mississippi, both Upper and Lower Bands	6,383
	12,486
New Annuitants—	
The Bois Fort or Red Lake Indians	1,600
	14,080

The amount paid by the United States to the several tribes of Indians in the Territory of Minnesota within the limits of the proposed new State, as annuities in money, provisions and goods, is as follows, viz.:

To the Chippewas, as per treaty stipulations, treaties of 1837, 1842, 1847, 1854 and 1855—

Money annuities	$29,733 34
Pillager and Lake Winnebeg Ostrich Bands of Chippewas, in money	10,666 66
Provisions to both above	5,500 00
Goods	17,833 33
	$63,733 34

To Winnebagoes—	
Money annuities	$48,000 00
Provisions	10,000 00
Goods	20,000 00
Tobacco	1,500 00
	$79,500 00
Sioux of the Mississippi—	
Money annuities to Upper Sioux	$43,294 11
" " Lower bands	46,784 48
Provisions	16,400 00
Annuity Goods	16,000 00
	$122,478 59

This does not include the various annuties paid by the United States for the purposes of education, agriculture, blacksmiths, support of the departments at the various Agencies, which is paid on account of the Indians, and for their benefit, but not to them. The above several amounts being directly paid to the Indians, I suppose covers the information desired by the Convention under the resolution.

I have the honor to remain, your obedient servant,

M. J. CULLEN,
Superintendent of Indian Affairs.

PAY OF THE REPUBLICAN CONVENTION.

The Convention then resumed the consideration of the resolution offered yesterday by Mr. GORMAN, relative to the pay of the Republicans.

Mr. MEEKER moved to postpone the consideration of the resolution until the 4th day of July next.

Mr. MURRAY demanded the yeas and nays on the motion, which were ordered, and the question being taken, resulted yeas 38, nays 7, as follows :

YEAS—Messrs. Butler, Becker, Barrett, Burns, Bailly, Baasen, Curtis, Cantell, Chase, Day, Emmett, Faber, Flandrau, Gilbert, Gilman, Holcombe, Jerome, Kennedy, Keegan, Lashelle, Murray, Meeker, McFetridge, McMahan, Norris, Prince, Rolette, Setzer, Sanderson, Stacey, Shepley, Sturgis, Streeter, Taylor, Tenvoorde, Tuttle, Vasseur, and Mr. President—38.

NAYS—Messrs. A. E. Ames, M. E. Ames, Davis, Gorman, Swan, Armstrong, and Warner—7.

So the resolution was ordered to be postponed until the 4th day of July next.

PRINTING OF THE CONSTITUTION.

Mr. BUTLER offered the following resolution :

RESOLVED, That 10,000 copies of the Constitution as enrolled, in addition to

those previously ordered, be printed in pamphlet form, under the direction of the Secretary, for distribution by members of the Convention.

Mr. B. remarked that the resolution which passed the Convention yesterday, was so amended by the order to print copies in the German, French, and Swedish languages, as to leave only 6,000 copies in English, which he thought was insufficient.

The resolution was adopted.

PAY OF THE CHAPLAIN.

Mr. HOLCOMBE offered the following resolution:

RESOLVED, That the President of this Convention authorize a certificate to be given to Rev. J. Penman, for services as Chaplain of this Convention, allowing him the same per diem as received by Delegates and for the same time.

The resolution was adopted.

PAY OF THE REPUBLICANS.

Mr. STREETER offered the following resolution:

RESOLVED, That the fifty-three legally elected members occupying seats in the east wing of the Capitol, be requested to come forward and sign the Constitution agreed upon by the Committee of Conference, and adopted by the Constitutional Convention, that they may be entitled to pay as members of the Constitutional Convention, and that C. A. Coe, of Houston, and Robert Lyle, of Mower County, be allowed mileage and per diem, as contestants.

Mr. TAYLOR moved that the resolution be indefinitely postponed, which motion was carried, and the resolution was indefinitely postponed.

PRINTING OF THE CONSTITUTION IN NORWEGIAN.

Mr. TENVOORDE offered the following resolution:

RESOLVED, That 2,000 copies of the Constitution be printed in the Norwegian language.

Mr. SETZER. I would suggest to the gentleman while he is about it, that he also move to have the Constitution printed in Chippewa. I make that motion.

Mr. MURRAY. I hope the resolution offered by the gentleman from Stearns (Mr. TENVOORDE) will be adopted. We have already ordered that the Constitution shall be printed in French, German and Swedish. Now, sir, there is a large number of Norwegians in the Territory and I think it is no more than right that the Constitution should be printed in their language.

Mr. SETZER. I withdraw the amendment.

The resolution was adopted.

On motion of Mr BROWN one hundred dollars was appropria-

ted for the purpose of having the Constitution translated into Norwegian.

Mr. SETZER offered the following resolution :

RESOLVED, That two thousand copies of the Constitution be printed in the Irish Language.

Mr. FLANDRAU moved to amend so as to have one thousand copies printed in the Sioux Language for the use of the Hazlewood Republic.

Mr. SETZER. I would suggest that twenty-five copies would be sufficient, for I believe that is the number of inhabitants in the gentleman's Republic.

Mr. SETZER moved to indefinitely postpone the resolution and amendment.

The amendment was agreed to.

PAY OF THE REPUBLICANS.

Mr. FLANDRAU offered the following resolution :

RESOLVED, That the President of the Constitutional Convention be authorized to sign certificates for the mileage and per diem of those Delegates to the Convention who have been assembled in the House of Representatives, with the exception of the four Delegates from St. Anthony, when said certificates shall be presented to him, and that he also be authorized to sign the certificates of Mr. CHASE, of Houston, and Mr. TYLOR, of Mower, for per diem and mileage as contestants.

Mr. F. said that in the shape in which he now offered the resolution he did not extend an invitation to the gentlemen in the other end of the Capitol to give up their organization and come here to get their pay. He was willing the legally elected members of that Convention should have their pay if they desired to obtain it through the President of this Convention. The resolution merely vested in the President the power to sign the certificates of those members if they should present them. He did not believe the members of that Convention would give up their organization and present their certificates here, but he hoped the resolution would pass so as to provide for the contingency if it should arise.

Mr. CURTIS moved to postpone the resolution indefinitely.

Mr. TAYLOR demanded the yeas and nays on the motion to postpone.

The yeas and nays were ordered, and the question being taken resulted, yeas 33, nays 11, as follows :

YEAS—Messrs. M. E. Ames, Armstrong, Butler, Becker, Barrett, Burns, Bailly, Brown, Baasen, Curtis, Chase, Day, Emmett, Faber, Holcombe, Kennedy, Keegan, Lashelle, Murray, Meeker, McFetridge, Prince, Rolette, Setzer, Sanderson, Sherburne, Shepley, Sturgis, Streeter, Taylor, Tenvoorde, Tuttle, Warner, and Mr. President—33.

NAYS—Messrs. A. E. Ames, Davis, Flandrau, Gilbert, Gorman, Kingsbury, McGrorty, McMahan, Norris, Stacey, and Swan—11.

So the resolution was indefinitely postponed.

ENROLLMENT OF THE CONSTITUTION ON PARCHMENT.

Mr. BROWN offered the following resolution, which was adopted:

RESOLVED, That the sum of seventy-five dollars be appropriated for transcribing the Constitution on parchment, to be signed by the President, Secretary and members of this Convention.

Mr. BROWN, from the Committee of Conference, submitted the following Report:

The Joint Committee of the two Conventions appointed to agree upon and submit one Constitution to the people of the State of Minnesota for ratification or rejection, would respectfully report that in accordance with the instructions to said Committee they have enrolled and now report a copy of the Constitution, carefully prepared, and adopted by the two Conventions, and now ready for verification by the Convention.

M. SHERBURNE, Chairman,
L. K. STANNARD, Secretary,
JOSEPH R. BROWN,
W. HOLCOMBE,
CYRUS ALDRICH,
CHARLES M. CHASE,
THOMAS J. GALBRAITH,
W. W. KINGSBURY.

The Report was accepted, and the Constitution as reported by them finally adopted and ordered for signature.

THANKS OF THE CONVENTION TO ITS OFFICERS.

Mr. A. E. AMES, on leave, offered the following resolution:

RESOLVED, That a vote of thanks of the Constitutional Convention are eminently due and hereby tendered to the Hon. H. H. SIBLEY, for the dignified and impartial manner in which he has presided over this Convention.

The resolution was adopted unanimously.

Mr. HOLCOMBE offered the following resolution:

RESOLVED, That Mr. F. H. SMITH, the Reporter of this Convention, is entitled to the thanks of this Convention for the prompt and impartial manner in which he has discharged his duties.

The resolution was adopted unanimously.

Mr. BROWN offered the following resolution:

RESOLVED, That the thanks of this Convention be tendered to J. J. NOAH, Esq., for the able manner in which he has performed the arduous duties of Secretary to this Convention.

The resolution was adopted unanimously.

The members of the Convention then came forward and signed

the Constitution in the order of the Council Districts which they represented, each member designating the County in which he resided.

Mr. TAYLOR declared he should never sign such a Constitution as the Convention had adopted.

On motion of Mr. PRINCE, the Convention adjourned until half-past two o'clock, P. M.

AFTERNOON SESSION.

The Convention met pursuant to adjournment.

On motion of Mr. KINGSBURY, a recess of half an hour was taken.

After which, the Auditing Committee presented a Report of the entire expenses of the Convention, which Report was received and adopted.

JOURNAL.

Mr. BROWN offered the following resolution:

RESOLVED, That the Secretary of this Convention be authorized to prepare and superintend the printing of the Journal of this Convention, (other than the debates), and indexing the same, and also to transcribe the same into a proper book for preservation.

The resolution was adopted.

ADDITIONAL PAY OF MEMBERS.

On motion of Mr. A. E. AMES, the resolution adopted yesterday giving additional per diem and mileage to members and officers was ordered to be expunged from the Journal.

PRINTING OF THE DEBATES.

Mr. FLANDRAU remarked that a resolution had passed the Convention for printing the Debates and Proceedings, leaving it discretionary with the President whether they should be printed in the Territory or out of it. He said there was a Territorial Printer who was a legally constituted officer, and who, in his opinion, should have all the printing ordered to be done by the Convention. He moved the adoption of the following resolution:

RESOLVED, That the Territorial Printer be designated by this Convention to do all the printing that is to be done for this Convention.

Mr. BROWN said the Territorial Printer had already as much work on hand as he could execute in twelve months. He should be in favor of giving the work to that officer if it could be done

without too great delay. He thought it was important that the Debates should be printed before the meeting of Congress, and he, therefore, hoped the resolution would not pass.

The resolution was not agreed to.

Mr. TAYLOR moved that the Convention adjourn *sine die*.

The motion was not agreed to.

Mr. FLANDRAU offered the following resolution:

RESOLVED, That all the printing of this Convention be done by some Democratic printing office in this Territory.

He said that the patronage of this Democratic Convention ought to go into the hands of Democrats. If the matter was left discretionary, it might be taken to New York and published in the office of the New York *Tribune*, for any thing this Convention knew. There were Democratic printing offices in the Territory competent to perform the work, and it would be a monstrous outrage to allow it to be taken out of the Territory. The Convention had refused to order it to be furnished to the Public Printer, and he now asked that it should be done by some Democratic office in the Territory. It was no more than justice that this Democratic patronage should go for the benefit of our own party at home.

Mr. BUTLER thought the matter was just right as it stood. It was now left at the discretion of the President and he considered this resolution disrespectful to that officer, showing a want of confidence in his integrity and judgment. He supposed the President would give the work, as a matter of course, to some Democratic office in the Territory, but there was no need of any instructions, and he hoped the resolution would not prevail.

Mr. CURTIS thought the matter should be given to some Democratic printer in the Territory, provided it could be done within a reasonable time and he moved, therefore, to amend by adding, "in case it can be done in one year."

The amendment was not agreed to.

Mr. DAVIS offered the following substitute.

RESOLVED, That the printing of the Journals and other Public Documents be distributed among the different Democratic offices of this Territory.

The substitute was not agreed to.

The question then recurred on the resolution as originally offered.

Mr. FABER demanded the yeas and nays.

The yeas and nays were ordered and the question being taken, resulted yeas 29, and nays 14, as follows:

YEAS—Messrs. A. E. Ames, M. E. Ames, Becker, Burns, Burwell, Bailly, Cantell, Faber, Flandrau, Gilman, Holcombe, Jerome, Kingsbury, Kennedy, Lashelle, Murray, McFetridge, McMahan, Nash, Rolette, Sherburne, Stacey,

Shepley, Sturgis, Swan, Tenvoorde, Tuttle, Vasseur, Warner, and Mr. President —29.

NAYS—Messrs. Butler, Brown, Curtis, Davis, Emmett, Gilbert, Keegan, Meeker, McGrorty, Norris, Prince, Setzer, Streeter, and Sanderson—14.

So the resolution was adopted.

Mr. STACEY moved to adjourn *sine die.*

The motion was not agreed to.

PAY OF THE REPUBLICANS—REPORT OF THE COMMITTEE ON CREDENTIALS.

Mr. A. E. AMES, from the Committee on Credentials, presented the following Report:

Your Committee on Credentials respectfully report that they have satisfactory evidence of the *legal election* of the following named *Delegates* to the Constitutional Convention:

Messrs. St. A. D. Balcombe, Benj. C. Baldwin, G. A. Kemp, Wm. F. Russell, N. B. Robbins, Jr. Simeon Hardin, W. H. C. Folsom, Wentworth Hayden, D. L. King, T. D. Smith, E. P. Davis, Thomas Wilson, E. N. Bates, Thomas Bolles, D. D. Dickerson, Thomas Foster, Lewis M'Kune, W. J. Duley, R. L. Bartholomew, N. P. Colburn, H. A. Billings, A. G. Hudson, Charles Gerrish, Frank Mantor, Amos Coggswell, L. K. Stannard, L. C. Walker, Charles M'Clure, Boyd Phelps, Joseph Peckham, George Watson, Charles F. Low, P. A. Cederstam, Charles B. Sheldon, David Morgan, James A. McCann, John A. Anderson, A. H. Butler, Charles Hanson, John Clighorn, A. B. Vaughn, Henry Eschle, Cyrus Aldrich, F. Ayer, A. W. Coombs, Thomas J. Galbraith, H. W. Holley, B. F. Messer, W. H. Mills, John W. North, O. E. Perkins, C. W. Thompson, Philip Winel—53.

THEREFORE, Your Committee offer for adoption the following resolution:

RESOLVED, That the foregoing named Delegates to the Constitutional Convention be paid Three Dollars per day for the session, together with mileage.

A. E. AMES,
J. S. NORRIS,
JOSEPH R. BROWN,
} Committee.

On motion of Mr. MURRAY, the Report was laid upon the table.

Mr. FLANDRAU moved to take up the resolution offered some time since, providing for submitting as a separate proposition the question of Boundary.

FINAL ADJOURNMENT.

Mr. BECKER moved that the Convention adjourn *sine die.*

The question was put and the motion agreed to.

The PRESIDENT then addressed the Convention as follows:

"*Gentlemen of the Convention:* Before the announcement of the vote upon a final adjournment, I beg leave to trespass for a very few moments upon your patience. The time has come for the termination of our session. The edifice being completed, the scaffolding is to be taken down: and the workmen will return to their em

ployers—the sovereign People—to render an account of their labors. We can point them to a Constitution prepared by a Democratic Convention, which we conceive to be the embodiment of Democratic principles and Democratic progress. It has been adopted by our political opponents as it first emanated from this body, with few and unimportant changes or amendments, and by their act they have paid a notable tribute to the wisdom and statesmanship of this Convention. We have a right to assume that the People will endorse our action in casting a large majority for the Fundamental Law to be submitted to them, and that Minnesota will speedily take her place among the States of the Union.

"It is a source of congratulation, that we close our proceedings not only with friendly feelings prevailing among ourselves but with kindly relations personally toward the individuals composing the assemblage in the other end of this Capitol. Politically opposed as we are, it would be unjust to ourselves as well as to them were we to refuse to acknowledge that we have been met by them in conference in committee in a manly and conciliatory spirit.

"We are about to part, and I thank you sincerely for the proofs you have given me of your confidence, and for the complimentary Resolution you have so unanimously adopted. I have been treated with indulgence when I have erred, and with uniform respect while discharging my duties as your presiding officer. Wishing you one and all a safe and speedy return to your homes, in obedience to the vote taken I pronounce the Convention adjourned *sine die*."

The Address was received with enthusiastic applause; and after many friendly greetings, the members of the Constitutional Convention separated for their homes in the various parts of the Territory.

APPENDIX.

ORGANIC ACT

OF THE

TERRITORY OF MINNESOTA.

AN ACT TO ESTABLISH THE TERRITORIAL GOVERNMENT OF MINNESOTA.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, from and after the passage of this Act, all that part of the Territory of the United States which lies within the following limits to wit: Beginning in the Mississippi River at the point where the line of forty-three degrees and thirty minutes of north latitude crosses the same, thence running due west on said line, which is the northern boundary of the State of Iowa, thence southerly along the western boundary of said State to the point where said boundary strikes the Missouri River, thence up the middle of the main channel of the Missouri River to the mouth of the White Earth River, thence up the middle of the main channel of the White Earth River to the boundary line between the possessions of the United States and Great Britain; thence east and south of east along the boundary line between the possessions of the United States and Great Britain to Lake Superior; thence in a straight line to the northernmost point of the State of Wisconsin in Lake Superior; thence along the western boundary line of said State of Wisconsin to the Mississippi River; thence down the main channel of said river to the place of beginning, be, and the same is hereby, erected into a temporary Government by the name of the Territory of Minnesota; *Pvovided,* That nothing in this Act contained shall be construed to inhibit the Government of the United States from dividing said Territory into two or more Territories, in such manner and such times as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States.

SEC. 2. *And be it further enacted,* That the Executive power and authority in and over said Territory of Minnesota, shall be vested

in a Governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The Governor shall reside within said Territory, shall be Commander-in-Chief of the Militia thereof, shall perform the duties and receive the emoluments of Superintendent of Indian Affairs; he may grant pardons for offences against the laws of said Territory, and reprieves for offences against the laws of the United States until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said Territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a Secretary of said Territory, who shall reside therein, and hold his office for four years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the Legislative Assembly hereinafter constituted, and all the acts and proceedings of the Governor in his Executive Department; he shall transmit one copy of the laws and one copy of the Executive proceedings, on or before the first day of December in each year to the President of the United States, and at the same time two copies of the laws to the Speaker of the House of Representatives, and the President of the Senate, for the use of Congress. And in case of the death, removal, resignation, or necessary absence of the Governor from the Territory, the Secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the Governor during such vacancy or necessary absence, or until another Governor shall be duly appointed to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the Governor and a Legislative Assemby. The Legislative Assembly shall consist of a Council and House of Representatives. The Council shall consist of nine members, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The House of Representatives shall, at its first session, consist of eighteen members, possessing the same qualifications as prescribed for members of the Council, and whose term of service shall continue one year. The number of Councillors and Representatives may be increased by the Legislative Assembly, from time to time, in proportion to the increase of population: *Provided*, That the whole number shall never exceed fifteen Councillors and thirty-nine Representatives. An apportionment shall be made, as nearly equal

as practicable, among the several counties, or districts, for the election of the Council and Representatives, giving each section of the Territory representation in the ratio of its population, Indians excepted, as nearly as may be. And the members of the Council and of the House of Representatives shall reside in and be inhabitants of the district for which they may be elected respectively. Previous to the first election, the Governor shall cause a census or enumeration of the inhabitants of the several counties and districts of the Territory to be taken, and the first election shall be held at such time and places, and be conducted in such manner, as the Governor shall appoint and direct; and he shall, at the same time, declare the number of members of the Council and House of Representatives to which each of the counties or districts shall be entitled under this Act. The number of persons authorized to be elected having the highest number of votes in each of said Council Districts for members of the Council, shall be declared, by the Governor to be duly elected to the Council; and the person or persons authorized to be elected, having the greatest number of votes for the House of Representatives, equal to the number to which each county or district shall be entitled, shall also be declared, by the Governor, to be duly elected members of the House of Representatives: *Provided*, That in case of a tie between two or more persons voted for, the Governor shall order a new election to supply the vacancy made by such tie. And the persons thus elected to the Legislative Assembly shall meet at such place on such day as the Governor shall appoint; but thereafter the time, place, and manner of holding and conducting all elections by the people, and the apportioning of the representation in the several counties or districts to the Council and House of Representatives according to the population, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the Legislative Assembly: *Provided*, That no one session shall exceed the term of sixty days.

Sec. 5. *And be it further enacted*, That every free white male inhabitant above the age of twenty-one years, who shall have been a resident of said Territory at the time of the passage of this Act, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters and of holding office, at all subsequent elections, shall be such as shall be prescribed by the Legislative Assembly; *Provided*, That the rights of suffrage and of holding office shall be exercised only by citizens of the United States, and those who shall have declared, on oath, their intention to become such, and shall have

taken an oath to support the Constitution of the United States and the provisions of this Act.

SEC. 6. *And be it further enacted*, That the Legislative power of the Territory shall extend to all rightful subjects of Legislation, consistent with the Constitution of the United States and the provisions of this Act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. All the laws passed by the Legislative Assembly and Governor shall be submitted to the Congress of the United States, and if disapproved, shall be null and of no effect.

SEC. 7. *And be it further enacted*, That all township, district and county officers, not herein otherwise provided for, shall be appointed, or elected, as the case may be, in such manner as shall be provided by the Governor and Legislative Assembly of the Territory of Minnesota. The Governor shall nominate, and, by and with the advice and consent of the Legislative Council, appoint all officers not herein otherwise provided for; and in the first instance the Governor alone may appoint all said officers, who shall hold their offices until the end of the next session of the Legislative Assembly.

SEC. 8. *And be it further enacted*, That no member of the Legislative Assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; and no person holding a commission or appointment under the United States, except Postmasters, shall be a member of the Legislative Assembly, or shall hold any office under the Government of said Territory.

SEC. 9. *And be it further enacted*, That the Judicial power of said Territory shall be vested in a Supreme Court, District Courts, Probate Courts, and in Justices of the Peace. The Supreme Court shall consist of a Chief Justice and two Associate Justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of Government of said Territory annually, and they shall hold their offices during the period of four years. The said Territory shall be divided into three Judicial Districts, and a District Court shall be held in each of said Districts by one of the Justices of the Supreme Court, at such times and places as may be prescribed by law; and the said Judges shall, after their appointment, respectively reside in the Districts which shall be as-

signed them. The jurisdiction of the several Courts herein provided for, both appellate and criminal, and that of the Probate Courts, and of Justices of the Peace, shall be as limited by law; *Provided*, That the Justices of the Peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said Supreme and District Courts, respectively, shall possess chancery as well as common law jurisdiction. Each District Court, or the Judge thereof, shall apppoint its Clerk, who shall also be the register in chancery, and shall keep his office at the place where the Court may be held. Writs of error, bills of exception and appeals, shall be allowed in all cases from the final decisions of said District Courts to the Supreme Court under such regulations as may be prescribed by law, but in no case removed to the Supreme Court shall trial by Jury be allowed in said Court. The Supreme Court, or the Justices thereof, shall appoint its own Clerk, and every Clerk shall hold his office at the pleasure of the Court for which he shall have been appointed. Writs of error and appeals from the final decisions of said Supreme Court shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the Circuit Courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; and each of the said District Courts shall have and exercise the same jurisdiction, in all cases arising under the Constitution and laws of the United States, as is vested in the Circuit and District Courts of the United States; and the first six days of every term of said Courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said Constitution and laws; and writs of error and appeal in all such cases shall be made to the Supreme Court of said Territory, the same as in other cases. The said Clerk shall receive, in all such cases, the same fees which the Clerks of the District Courts of the late Wisconsin Territory received for similar services.

SEC. 10. *And be it further enacted*, That there shall be appointed an attorney for said Territory, who shall continue in office for four years, unless sooner removed by the President, and who shall receive the same fees and salary as the Attorney of the United States for the late Territory of Wisconsin received. There shall also be a Marshal for the Territory appointed, who shall hold his office for four years, unless sooner removed by the President, and who shall

execute all processes issuing from the said Courts, when exercising their jurisdiction as Circuit and District Courts of the United States; he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees, as the Marshal of the District Court of the United States for the late Territory of Wisconsin; and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

SEC. 11. *And be it further enacted*, That the Governor, Secretary, Chief Justice, and Associate Justices, Attorney and Marshal, shall be nominated, and, by and with the advice and consent of the Senate, appointed by the President of the United States. The Governor and Secretary to be appointed as aforesaid shall, before they act as such, respectively take an oath or affirmation, before the District Judge, or some Justice of the Peace, in the limits of said Territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the Chief Justice or some Associate Justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken shall be certified by the person by whom the same shall have been taken, and such certificates shall be received and recorded by the said Secretary among the executive proceedings; and the Chief Justice and Associate Justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation, before the said Governor or Secretary, or some Judge, or Justice of the Peace of the Territory, who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same, to the Secretary, to be by him recorded as aforesaid; and afterwards the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. The Governor shall receive an annual salary of fifteen hundred dollars as Governor, and one thousand dollars as Superintendent of Indian Affairs. The Chief Justice and Associate Justices shall each receive an annual salary of eighteen hundred dollars. The Secretary shall receive an annual salary of eighteen hundred dollars. The said salaries shall be paid quarter-yearly, at the Treasury of the United States. The members of the Legislative Assembly shall be entitled to receive three dollars each per day during their attendance at the sessions thereof, and three dollars each for every twenty miles travel in going to and returning from the said sessions, estimated according to the nearest usually traveled route. There shall be appropriated, annually, the sum of one thousand dollars,

to be expended by the Governor to defray the contingent expenses of the Territory; and there shall also be appropriated, annually, a sufficient sum, to be expended by the Secretary of the Territory, and, upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the Legislative Assembly, the printing of the laws, and other incidental expenses; and the Secretary of the Territory shall annually account to the Secretary of the Treasury of the United States for the manner in which the aforesaid sum shall have been expended.

SEC. 12. *And be it further enacted*, That the inhabitants of the said Territory shall be entitled to all the rights, privileges and immunities heretofore granted and secured to the Territory of Wisconsin and to its inhabitants; and the laws in force in the Territory of Wisconsin at the date of the admission of the State of Wisconsin, shall continue to be valid and operative therein, so far as the same be not incompatible with the provisions of this Act, subject, nevertheless, to be altered, modified, or repealed, by the Governor and Legislative Assembly of the Territory of Minnesota; and the laws of the United States are hereby extended over and declared to be in force in said Territory, so far as the same, or any provision thereof, may be applicable.

SEC. 13. *And be it further enacted*, That the Legislative Assembly of the Territory of Minnesota shall hold its first session at Saint Paul; and at said first session the Governor and Legislative Assembly shall locate and establish a temporary seat of Government for said Territory, at such place as they may deem eligible; and shall, at such time as they shall see proper, prescribe by law the manner of locating the permanent seat of Government of said Territory by a vote of the people. And the sum of twenty thousand dollars, out of any money in the Treasury not otherwise appropriated, is hereby appropriated and granted to said Territory of Minnesota, to be applied, by the Governor and Legislative Assembly, to the erection of suitable public buildings at the seat of Government.

SEC. 14. *And be it further enacted*, That a Delegate to the House of Representatives of the United States, to serve for the term of two years, may be elected by the voters qualified to elect members of the Legislative Assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the Delegates from the several other Territories of the United States to the said House of Representatives. The first election shall be held at such times and places, and be conducted in such manner, as the Governor shall appoint and direct; and at all subsequent elections, the

times, places, and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the Governor to be duly elected, and a certificate thereof shall be given accordingly.

SEC. 15. *And be it further enacted*, That all suits, process, and proceedings, civil and criminal, at law and in chancery, and all indictments and informations, which shall be pending and undetermined in the courts of the Territory of Wisconsin, within the limits of said Territory of Minnesota, when this Act shall take effect, shall be transferred to be heard, tried, prosecuted, and determined in the district courts hereby established, which may include the counties or districts where any such proceedings may be pending. All bonds, recognizances, and obligations of every kind whatsoever, valid under the existing laws within the limits of said Territory, shall be valid under this act; and all crimes and misdemeanors against the laws in force within said limits may be prosecuted, tried, and punished in the courts established by this act; and all penalties, forfeitures, actions, and causes of action, may be recovtried under this act, the same as they would have been under the laws in force within the limits composing said Territory at the time this act shall go into operation.

SEC. 16. *And be it further enacted*, That all justices of the peace, constables, sheriffs, and all other judicial and ministerial officers, who shall be in office within the limits of said Territory when this act shall take effect, shall be, and they are hereby, authorized and required to continue to exercise and perform the duties of their respective offices as officers of the Territory of Minnesota, temporarily, and until they, or others, shall be duly appointed and qualified to fill their places in the manner herein directed, or until their offices shall be abolished.

SEC. 17. *And be it further enacted*, That the sum of five thousand dollars be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, to be expended by and under the direction of the said Governor of the Territory of Minnesota, in the purchase of a library, to be kept at the seat of government, for the use of the Governor, Legislative Assembly, Judges of the Supreme Court, Secretary, Marshal, and Attorney of said Territory, and such other persons and under such regulations as shall be prescribed by law.

SEC. 18. *And be it further enacted*, That when the lands in the said Territory shall be surveyed under the direction of the Government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township

in said Territory shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be erected out of the same..

SEC. 19. *And be it further enacted*, That temporarily, and until otherwise provided by law, the Governor of said Territory may define the Judicial Districts of said Territory, and assign the Judges who may be appointed for said Territory to the several Districts, and also appoint the times and places for holding Courts in the several Counties or subdivisions in each of said Judicial Districts, by proclamation to be issued by him; but the Legislative Assembly, at their first or any subsequent session, may organize, alter, or modify such Judicial Districts, and assign the Judges, and alter the times and places of holding the Courts as to them shall seem proper and convenient.

SEC. 20. *And be it further enacted*, That every bill which shall or may pass the Council and House of Representatives shall, before it becomes a law, be presented to the Governor of the Territory; if he approve, he shall sign it, but if not, he shall return it, with his objections, to the House in which it originated; which shall cause the objections to be entered at large upon the Journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall also be reconsidered, and if approved by two-thirds of that House, it shall become 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 and against the bill shall be entered on the Journal of each House respectively. If any bill shall not be returned by the Governor, within three days, (Sundays excepted,) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Legislative Assembly, by adjournment, prevent it; in which case it shall not become a law.

APPROVED March 3, 1849.

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THE ENABLING ACT.

AN ACT TO AUTHORIZE THE PEOPLE OF MINNESOTA TO FORM A CONSTITUTION AND STATE GOVERNMENT, PREPARATORY TO THEIR ADMISSION INTO THE UNION ON AN EQUAL FOOTING WITH THE ORIGINAL STATES.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the inhabitants of that portion of the Territory of Minnesota which is embraced within the following limits, to wit: Beginning at the point in the center of the main channel of the Red River of the North, where the boundary line between the United States and the British Possessions crosses the same; thence up the main channel of said river to that of the Bois des Sioux River; thence up the main channel of said river to Lake Travers; thence up the center of said lake to the southern extremity thereof; thence in a direct line to the head of Big Stone Lake; thence through its center to its outlet; thence by a due south line to the north line of the State of Iowa; thence along the northern boundary of said State to the main channel of the Mississippi River; thence up the main channel of said river, and following the boundary line of the State of Wisconsin, until the same intersects the Saint Louis River; thence down the said river to and through Lake Superior on the boundary line of Wisconsin and Michigan, until it intersects the dividing line between the United States and the British Possessions; thence up Pigeon River, and following said dividing line to the place of beginning, be, and they are hereby, authorized to form for themselves a Constitution and State Government, by the name of the State of Minnesota, and to come into the Union on an equal footing with the original States, according to the Federal Constitution.

SEC. 2. *And be it further enacted*, That the State of Minnesota shall have concurrent jurisdiction on the Mississippi and all other rivers and waters bordering on the said State of Minnesota, so far as the same shall form a common boundary to said State, and any State or States now or hereafter to be formed or bounded by the same; and said river and waters leading into the same, shall be common highways, and forever free, as well to the inhabitants of

said State as to all other citizens of the United States, without any tax, duty, impost or toll therefor.

SEC. 3. *And be it further enacted*, That on the first Monday in June next, the legal voters in each Representative District, then existing within the limits of the proposed State, are hereby authorized to elect two Delegates for each Representative to which said District may be entitled according to the apportionment for Representatives to the Territorial Legislature, which election for Delegates shall be held and conducted, and the returns made, in all respects in conformity with the laws of said Territory regulating the election of Representatives; and the Delegates so elected shall assemble at the Capitol of said Territory, on the second Monday in July next, and first determine, by a vote, whether it is the wish of the people of the proposed State to be admitted into the Union at that time; and if so, shall proceed to form a Constitution, and take all necessary steps for the establishment of a State Government, in conformity with the Federal Constitution, subject to the approval and ratification of the people of the proposed State.

SEC. 4. *And be it further enacted*, That in the event said Convention shall decide in favor of the immediate admission of the proposed State into the Union, it shall be the duty of the United States Marshall for said Territory to proceed to take a census or enumeration of the inhabitants within the limits of the proposed State, under such rules and regulations as shall be prescribed by the Secretary of the Interior, with the view of ascertaining the number of Representatives to which said State may be entitled in the Congress of the United States; and said State shall be entitled to one Representative and such additional Representatives as the population of the State shall, according to the census, show it would be entitled to according to the present ratio of representation

SEC. 5. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the said Convention of the people of Minnesota for their free acceptance or rejection, which, if accepted by the Convention, shall be obligatory on the United States and upon the said State of Minnesota, to wit:

First, That sections numbered sixteen and thirty-six in every township of public lands in said State, and where either of said Sections, or any part thereof, has been sold or otherwise been disposed of, other lands, epuivalent thereto and as contiguous as may be, shall be granted to said State for the use of Schools.

Second, That seventy-two Sections of land shall be set apart and reserved for the use and support of a State University, to be

selected by the Governor of said State, subject to the approval of the Commissioner at the General Land office, and to be appropriated and applied in such manner as the Legislature of said State may prescribe for the purpose aforesaid, but for no other purpose.

Third, That ten entire Sections of land, to be selected by the Governor of said State, in legal subdivisions, shall be granted to said State for the purpose of completing the public buildings, or for the erection of others at the seat of Government, under the direction of the Legislature thereof.

Fourth, That all salt springs within said State, not exceeding twelve in number, with six Sections of land adjoining, or as contiguous as may be to each, shall be granted to said State for its use ; the same to be selected by the Governor thereof, within one year after the admission of said State, and when so selected, to be used or disposed of on such terms, conditions and regulations as the Legislature shall direct: *Provided*, That no salt spring or land, the right whereof is now vested in any individual or individuals, or which may be hereafter confirmed or adjudged to any individual or individuals, shall, by this article, be granted to said State.

Fifth, That five per centum of the net proceeds of sales of all public lands lying within said State, which shall be sold by Congress after the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to said State for the purpose of making public roads and internal improvements, as the Legislature shall direct: *Provided*, the foregoing propositions herein offered are on the condition that the said Convention which shall form the Constitution of said State shall provide by a clause in said Constitution, or an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same, by the United States, or with any regulations Congress may find necessary for securing the title in said soil to *bona fide* purchasers thereof ; and that no tax shall be imposed on lands belonging to the United States, and that in no case shall non-resident proprietors be taxed higher than residents.

LEGISLATIVE ACT,

PROVIDING FOR THE EXPENSES OF THE

CONSTITUTIONAL CONVENTION.

AN ACT TO PROVIDE FOR THE PAYMENT OF THE EXPENSES OF THE CONVENTION TO FORM A CONSTITUTION FOR THE STATE OF MINNESOTA, IN ACCORDANCE WITH AN ACT OF CONGRESS, APPROVED MARCH 3, 1857.

Be it enacted by the Legislative Assembly of the Territory of Minnesota:

SECTION 1. That on the first Monday of June next, the qualified electors of the Territory of Minnesota, shall assemble at their respective places appointed by law for the opening of the polls, and shall there proceed to elect by ballot, certain Delegates for a Convention to form a Constitution and State Government for this Territory.

SEC. 2. Every Council District in this Territory shall elect two Delegates for every Councillor it may be entitled to in the Legislative Council, and every Representative District shall elect two Delegates for every member they may be entitled to in the House of Representatives; *Provided*, That whenever any District has been sub-divided in order to elect their Representative in the Legislative Assembly, the same sub-division shall govern in the election of Delegates to the Constitutional Convention.

SEC. 3. That there be appropriated, out of any money in the Territorial Treasury, unappropriated, for mileage and per diem of members, officers, and Secretaries, and for Stationary, the sum of thirty thousand dollars.

SEC. 4. That the members, officers, and Secretaries of said Convention shall be entitled to the same mileage and per diem as members of the Legislative Assembly; *Provided*, That the presiding officer shall be entitled to three dollars per day extra.

SEC. 5. The compensation herein provided, for the members, officers, and Secretaries, shall be certified by the presiding officer,

and attested by the Secretary, as well as all claims for Stationary, Printing, and all other Incidental Expenses, which said certificates, when so certified, shall be sufficient evidence to the Territorial Treasurer of each person's claim.

SEC. 6. The qualifications of Delegates to the Constitutional Convention shall be the same as the qualifications for member of the House of Representatives or the Legislative Assembly.

SEC. 7. This Act shall be in force from and after its passage.

APPROVED—May twenty-third, one thousand eight hundred and fifty-seven.

CONSTITUTION

OF THE

STATE OF MINNESOTA.

PREAMBLE.

We, the people of the State of Minnesota, grateful to God for our civil and religious liberty, and desiring to perpetuate its blessings, and secure the same to ourselves and our posterity, do ordain and establish this Constitution:

Article First—*Bill of Rights.*

Section 1. Government is instituted for the security, benefit and protection of the people, in whom all political power is inherent, together with the right to alter, modify, or reform such Government, whenever the public good may require it.

Sec. 2. No member of this State shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers. There shall be neither slavery nor involuntary servitude in the State, otherwise than in the punishment of crime, whereof the party shall have been duly convicted.

Sec. 3. The Liberty of the press shall forever remain inviolate, and all persons may freely speak, write and publish their sentiments on all subjects, being responsible for the abuse of such right.

Sec. 4. The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy; but a jury trial may be waived by the parties in all cases, in the manner prescribed by law.

Sec. 5. Excessive bail shall not be required, nor shall excessive fines be imposed; nor shall cruel or unusual punishments be inflicted.

Sec. 6. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the County or District wherein the crime shall have been committed, which County or District shall have been previously ascertained

by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel in his defense.

SEC. 7. No person shall be held to answer for a criminal offence unless on the presentment or indictment of a Grand Jury, except in cases of impeachment or in cases cognizable by Justices of the Peace, or arising in the Army or Navy, or in the militia when in actual service in time of war or public danger, and no person for the same offence shall be put twice in jeopardy of punishment, nor shall be compelled in any criminal case to [be] witness against himself, nor be deprived of life, liberty, or property, without due process of Law. All persons shall before conviction be bailable by sufficient sureties, except for capital offenses, when the proof is evident or the presumption great; and the privilege of the writ of habeas corpus shall not be suspended, unless, when in cases of rebellion or invasion, the public safety may require.

SEC. 8. Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property or character; he ought to obtain justice freely and without purchase; completely and without denial; promptly and without delay, conformably to the laws.

SEC. 9. Treason against the State shall consist only in levying war against the same, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of Treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 10. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

SEC 11. No bill of attainder, *ex post facto* law, nor any law impairing the obligation of contracts shall ever be passed, and no conviction shall work corruption of blood or forfeiture of estate.

SEC. 12. No person shall be imprisoned for debt in this State, but this shall not prevent the Legislature from providing for imprisonment, or holding to bail persons charged with fraud in contracting said debt. A reasonable amount of property shall be exempt from seizure or sale, for the payment of any debt or liability; the amount of such exemption shall be determined by law.

SEC. 13. Private property shall not be taken for public use without just compensation therefor, first paid or secured.

SEC. 14. The military shall be subordinate to the civil power, and no standing army shall be kept up in this State in time of peace.

SEC. 15. All lands within this State are declared to be allodial, and feudal tenures of every description, with all their incidents, are prohibited. Leases and grants of agricultural land for a longer period than twenty-one years, hereafter made, in which shall be reserved any rent or service of any kind, shall be void.

SEC. 16. The enumeration of rights in this Constitution, shall not be construed to deny or impair others retained by and inherent in the people. The right of every man to worship God according to the dictates of his own conscience shall never be infringed, nor shall any man be compelled to attend, erect, or support any places of worship, or to maintain any religious or ecclesiastical ministry against his consent, nor shall any control of, or interference with the rights of conscience be permitted, or any preference be given by law to any religious establishment or mode of worship; but the liberty of conscience hereby secured, shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace or safety of the State, nor shall any money be drawn from the Treasury for the benefit of any religious societies, or religious or Theological Seminaries.

SEC. 17. No religious test or amount of property shall ever be required as a qualification for any office of public trust under the State. No religious test or amount of property shall ever be required as a qualification of any voter at any election in this State; nor shall any person be rendered incompetent to give evidence in any court of law or equity in consequence of his opinion upon the subject of religion.

ARTICLE SECOND—*On Name and Boundaries.*

SECTION 1. This State shall be called and known by the name of the State of Minnesota, and shall consist of and have jurisdiction over the Territory embraced in the following boundaries, to wit: Beginning at the point in the center of the main channel of the Red River of the North, where the boundary line between the United States and the British Possessions crosses the same; thence up the main channel of said river to that of the Bois des Sioux River; thence up the main channel of said river to Lake Traverse; thence up the center of said lake to the southern extremity thereof; thence in a direct line to the head of Big Stone Lake, thence through

its center to its outlet; thence by a due south line to the north line of the State of Iowa; thence east along the northern boundary of said State to the main channel of the Mississippi River; thence up the main channel of said river, and following the boundary line of the State of Wisconsin until the same intersects the St. Louis River; thence down the said river to and through Lake Superior, on the boundary line of Wisconsin and Michigan, until it intersects the dividing line between the United States and British Possessions; thence up Pigeon River and following said dividing line to the place of beginning.

SEC. 2. The State of Minnesota shall have concurrent jurisdiction on the Mississippi and on all other rivers and waters bordering on the said State of Minnesota, so far as the same shall form a common boundary to said State, and any other State or States now or hereafter to be formed by the same; and said river and waters, and navigable waters leading into the same, shall be common highways, and forever free, as well to the inhabitants of said State as to other citizens of the United States, without any tax, duty, impost or toll therefor.

SEC. 3. The propositions contained in the act of Congress entitled "An Act to authorize the people of the Territory of Minnesota to form a Constitution and State Government preparatory to their admission into the Union on an equal footing with the original States," are hereby accepted, ratified and confirmed, and shall remain irrevocable without the consent of the United States; and it is hereby ordained that this State shall never interfere with the primary disposal of the soil within the same, by the United States, or with any regulations Congress may find necessary for securing the title to said soil to *bona fide* purchasers thereof; and no tax shall be imposed on lands belonging to the United States, and in no case shall non-resident proprietors be taxed higher than residents.

ARTICLE THIRD—*Distribution of the Powers of Government.*

SECTION 1. The powers of government shall be divided into three distinct Departments, the Legislative, Executive and Judicial; and no person or persons belonging to or constituting one of these Departments, shall exercise any of the powers properly belonging to either of the others, except in the instances expressly provided in this Constitution.

ARTICLE FOURTH—*Legislative Department.*

SECTION 1. The Legislature of the State shall consist of a Senate

and House of Representatives, who shall meet at the Seat of Government of the State, at such times as shall be prescribed by law.

SEC. 2. The number of members who compose the Senate and House of Representatives shall be prescribed by law, but the representation in the Senate shall never exceed one member for every five thousand inhabitants, and in the House of Representatives one member for every two thousand inhabitants. The representation in both Houses shall be apportioned equally throughout the different sections of the State, in proportion to the population thereof, exclusive of Indians not taxable under the provisions of law.

SEC. 3. Each House shall be judge of the election returns, and eligibility of its own members; a majority of each shall constitute a quorum to transact business, but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as it may provide.

SEC. 4. Each House may determine the rules of its proceedings, sit upon its own adjournment, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member, but no member shall be expelled a second time for the same offense.

SEC. 5. The House of Representatives shall elect its presiding officer, and the Senate and House of Representatives shall elect such other officers as may be provided by law; they shall keep Journals of their proceedings, and from time to time publish the same, and the yeas and nays, when taken on any question, shall be entered on such Journals.

SEC. 6. Neither House shall, during a session of the Legislature, adjourn for more than three days, (Sunday excepted,) nor to any other place than that in which the two Houses shall be assembled, without the consent of the other House.

SEC. 7. The compensation of Senators and Representatives shall be three dollars per diem, during the first session, but may afterwards be prescribed by law. But no increase of compensation shall be prescribed which shall take effect during the period for which the members of the existing House of Representatives may have been elected.

SEC. 8. The members of each House shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during the session of their respective Houses, and in going to or returning from the same. For any speech or debate in either House, they shall not be questioned in any other place.

SEC. 9. No Senator or Representative shall, during the time for which he is elected, hold any office under the authority of the

United States, or the State of Minnesota, except that of Postmaster; and no Senator or Representative shall hold an office under the State, which had been created, or the emoluments of which had been increased during the session of the Legislature of which he was a member, until one year after the expiration of his term of office in the Legislature.

SEC. 10. All Bills for raising a revenue shall originate in the House of Representatives, but the Senate may propose and concur with amendments, as on other Bills.

SEC. 11. Every Bill which shall have passed the Senate and House of Representatives, in conformity to the Rules of each House and the Joint Rules of the two Houses, shall, before it becomes a law, be presented to the Governor of the State. If he approve, he shall sign and deposit it in the office of Secretary of State for preservation, and notify the House, where it originated, of the fact. But if not, he shall return it, with his objections, to the House in which it shall have originated, when such objections shall be entered at large on the Journal of the same, and the House shall proceed to reconsider the Bill. If, after such reconsideration, two thirds of that House shall agree to pass the Bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if it be approved by two-thirds of that House, it shall become 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 Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the Governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Legislature, by adjournment within that time, prevent its return, in which case it shall not be a law. The Governor may approve, sign and file in the office of the Secretary of State, within three days after the adjournment of the Legislature, any act passed during the three last days of the session, and the same shall become a law.

SEC. 12. No money shall be appropriated, except by Bill. Every order, resolution or vote requiring the concurrence of the two Houses, (except such as relate to the business or adjournment of the same,) shall be presented to the Governor for his signature, and before the same shall take effect, shall be approved by him, or being returned by him with his objections shall be repassed by two-thirds of the members of the two Houses, according to the rules and limitations prescribed in case of a Bill.

SEC. 13. The style of all laws of this State shall be: "Be it enacted by the Legislature of the State of Minnesota." No law shall be passed unless voted for by a majority of all the members elected to each branch of the Legislature, and the vote entered upon the Journal of each House.

SEC. 14. The House of Representatives shall have the sole power of impeachment, through a concurrence of a majority of all the members elected to seats therein. All impeachments shall be tried by the Senate; and when sitting for that purpose, the Senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 15. The Legislature shall have full power to exclude from the privilege of electing or being elected, any person convicted of bribery, perjury, or any other infamous crime.

SEC. 16. Two or more members of either House shall have liberty to dissent and protest against any act or resolution which they may think injurious to the public or to any individual, and have the reason of their dissent entered on the Journal.

SEC. 17. The Governor shall issue writs of election to fill such vacancies as may occur in either House of the Legislature. The Legislature shall prescribe by law the manner in which evidence in cases of contested seats in either House shall be taken.

SEC. 18. Each House may punish by imprisonment, during its session, any person not a member who shall be guilty of any disorderly or contemptuous behavior in their presence, but no such imprisonment shall at any time exceed twenty-four hours.

SEC. 19. Each House shall be open to the public during the sessions thereof, except in such cases as in their opinion may require secrecy.

SEC. 20. Every Bill shall be read on three different days in each separate House, unless in case of urgency two-thirds of the House where such Bill is depending shall deem it expedient to dispense with this rule, and no Bill shall be passed by either House until it shall have been previously read twice at length.

SEC. 21. Every Bill, having passed both Houses, shall be carefully enrolled, and shall be signed by the presiding officer of each House. Any presiding officer refusing to sign a Bill which shall have previously passed both Houses, shall thereafter be incapable of holding a seat in either branch of the Legislature, or hold any other office of honor or profit in the State, and in case of such refusal, each House shall, by rule, provide the manner in which such Bill shall be properly certified for presentation to the Governor.

SEC. 22. No Bill shall be passed by either House of the Legislature upon the day prescribed for the adjournment of the two Houses. But this Section shall not be so construed as to preclude the enrollment of a Bill, or the signature and passage from one House to the other, or the reports thereon from committees, or its transmission to the Executive for his signature.

SEC. 23. The Legislature shall provide by law for the enumeration of the inhabitants of this State in the year one thousand eight hundred and sixty-five, and every tenth year thereafter. At their first session after each enumeration so made, and also at their first session after each enumeration made by the authority of the United States, the Legislature shall have the power to prescribe the bounds of Congressional, Senatorial and Representative Districts, and to apportion anew the Senators and Representatives among the several Districts, according to the provisions of Section second of this Article.

SEC. 24. The Senators shall also be chosen by single Districts of convenient contiguous Territory, at the same time that the members of the House of Representatives are required to be chosen, and in the same manner, and no Representative District shall be divided in the formation of a Senate District. The Senate Districts shall be numbered in regular series, and the Senators chosen by the Districts designated by odd numbers, shall go out of office at the expiration of the first year, and the Senators chosen by the Districts designated by even numbers, shall go out of office at the expiration of the second year; and thereafter the Senators shall be chosen for the term of two years, except there shall be an entire new election of all the Senators at the election next succeeding each new apportionment provided for in this Article.

SEC. 25. Senators and Representatives shall be qualified voters of the State, and shall have resided one year in the State, and six months immediately preceding the election in the District from which they are elected.

SEC. 26. Members of the Senate of the United States from this State shall be elected by the two Houses of the Legislature in Joint Convention, at such times and in such manner as may be provided by law.

SEC. 27. No law shall embrace more than one subject, which shall be expressed in its title.

SEC. 28. Divorces shall not be granted by the Legislature.

SEC. 29. All members and officers of both branches of the Legislature, shall, before entering upon the duties of their respective trusts, take and subscribe an oath or affirmation to support the

Constitution of the United States, the Constitution of the State of Minnesota, and faithfully and impartially discharge the duties devolving upon him as such member or officer.

SEC. 30. In all elections to be made by the Legislature, the members thereof shall vote *viva voce*, and their votes shall be entered on the Journal.

SEC. 31. The Legislature shall never authorize any lottery, or the sale of lottery tickets.

ARTICLE FIFTH—*Executive Department.*

SECTION 1. The Executive Department shall consist of a Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, and Attorney General, who shall be chosen by the electors of the State.

SEC. 2. The returns of every election, for the officers named in the foregoing Section, shall be made to the Secretary of State, and by him transmitted to the Speaker of the House of Representatives, who shall cause the same to be opened and canvassed before both Houses of the Legislature, and the result declared within three days after each House shall be organized.

SEC. 3. The term of office for the Governor and Lieutenant Governor shall be two years and until their successors are chosen and qualified. Each shall have attained the age of twenty-five (25) years, and shall have been a *bona fide* resident of the State for one year next preceding his election. Both shall be citizens of the United States.

SEC. 4. The Governor shall communicate by message to each session of the Legislature such information touching the state and condition of the country as he may deem expedient. He shall be Commander-in-Chief of the Military and Naval forces, and may call out such forces to execute the laws, suppress insurrection and repel invasion. He may require the opinion, in writing, of the principal officer in each of the Executive Departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons, after conviction, for offenses against the State, except in cases of impeachment. He shall have power, by and with the advice and consent of the Senate, to appoint a State Librarian and Notaries Public; and such other officers as may be provided by law. He shall have power to appoint Commissioners to take the acknowledgment of Deeds, or other instruments in writing, to be used in the State. He shall have a negative upon all laws passed by the Legislature, under such rules and limitations as are in this Constitution prescribed.

He may on extraordinary occasions convene both Houses of the Legislature. He shall take care that the laws be faithfully executed, fill any vacancy that may occur in the office of Secretary of State, Treasurer, Auditor, Attorney General, and such other State and District offices as may be hereafter created by law, until the next annual election, and until their successors are chosen and qualified.

SEC. 5. The official term of the Secretary of State, Treasurer, and Attorney General shall be two years. The official term of the Auditor shall be three years, and each shall continue in office until his successor shall have been elected and qualified. The Governor's salary for the first term under this Constitution shall be Two Thousand Five Hundred Dollars per annum. The salary of the Secretary of State for the first term shall be Fifteen Hundred Dollars per annum. The Auditor, Treasurer, and Attorney General shall each, for the first term, receive a salary of One Thousand Dollars per annum. And the further duties and salaries of said Executive officers shall each thereafter be prescribed by law.

SEC. 6. The Lieutenant-Governor shall be *ex-officio* President of the Senate; and in case a vacancy should occur, from any cause whatever, in the office of Governor, he shall be Governor during such vacancy. The compensation of Lieutenant-Governor shall be double the compensation of a State Senator. Before the close of each session of the Senate, they shall elect a President *pro tempore*, who shall be Lieutenant-Governor in case a vacancy should occur in that office.

SEC. 7. The term of each of the Executive offices named in this Article shall commence upon taking the oath of office, after the State shall be admitted by Congress into the Union, and continue until the first Monday in January, 1860, except the Auditor, who shall continue in office until the first Monday in January, 1861, and until their successors shall have been duly elected and qualified.

SEC. 8. Each officer created by this Article, shall, before entering upon his duties, take an oath or affirmation to support the Constitution of the United States, and of this State, and faithfully discharge the duties of his office to the best of his judgment and ability.

SEC. 9. Laws shall be passed at the first Session of the Legislature after the State is admitted into the Union to carry out the provisions of this Article.

ARTICLE SIXTH—*Judiciary.*

SECTION 1. The Judicial power of the State shall be vested in a

Supreme Court, District Courts, Courts of Probate, Justices of the Peace, and such other Courts, inferior to the Supreme Court, as the Legislature may from time to time establish by a two-thirds vote.

SEC. 2. The Supreme Court shall consist of one Chief Justice and two Associate Justices, but the number of the Associate Justices may be increased to a number not exceeding four, by the Legislature, by a two-thirds vote, when it shall be deemed necessary. It shall have original jurisdiction in such remedial cases as may be prescribed by law, and appellate jurisdiction in all cases, both in law and equity, but there shall be no trial by jury in said Court. It shall hold one or more terms in each year, as the Legislature may direct, at the seat of Government, and the Legislature may provide by a two-thirds vote, that one term in each year shall be held in each or any Judicial District. It shall be the duty of such Court to appoint a Reporter of its decisions. There shall be chosen by the qualified electors of the State, one Clerk of the Supreme Court, who shall hold his office for the term of three years, and until his successor is duly elected and qualified, and the Judges of the Supreme Court, or a majority of them, shall have the power to fill any vacancy in the office of Clerk of the Supreme Court until an election can be regularly had.

SEC. 3. The Judges of the Supreme Court shall be elected by the electors of the State at large, and their term of office shall be seven years, and until their successors are elected and qualified.

SEC. 4. The State shall be divided by the Legislature into six Judicial Districts, which shall be composed of contiguous Territory, be bounded by county lines, and contain a population as nearly equal as may be practicable. In each Judicial District, one Judge shall be elected by the electors thereof, who shall constitute said Court and whose term of office shall be seven years. Every District Judge shall, at the time of his election, be a resident of the District for which he shall be elected, and shall reside therein during his continuance in office.

SEC. 5. The District Courts shall have original jurisdiction in all civil cases, both in law and equity, where the amount in controversy exceeds one hundred dollars, and in all criminal cases where the punishment shall exceed three months imprisonment, or a fine of more than one hundred dollars, and shall have such appellate jurisdiction as may be prescribed by law. The Legislature may provide by law that the Judge of one District may discharge the duties of the Judge of any other District not his own, when convenience or the public interest may require it.

SEC. 6. The Judges of the Supreme and District Courts shall be

men learned in the law, and shall receive such compensation, at stated times, as may be prescribed by the Legislature, which compensation shall not be diminished during their continuance in office, but they shall receive no other fee or reward for their services.

SEC. 7. There shall be established in each organized County in the State a Probate Court, which shall be a Court of Record, and be held at such times and places as may be prescribed by law. It shall be held by one Judge, who shall be elected by the voters of the County, for the term of two years. He shall be a resident of such County at the time of his election, and reside therein during his continuance in office, and his compensation shall be provided by law. He may appoint his own Clerk, where none has been elected, but the Legislature may authorize the election by the electors of any County, of one Clerk or Register of Probate for such County, whose powers, duties, term of office and compensation shall be prescribed by law. A Probate Court shall have jurisdiction over the estates of deceased persons and persons under guardianship, but no other jurisdiction, except as prescribed by this Constitution.

SEC. 8. The Legislature shall provide for the election of a sufficient number of Justices of the Peace in each County, whose term of office shall be two years, and whose duties and compensation shall be prescribed by law: *Provided*, That no Justice of the Peace shall have jurisdiction of any civil cause where the amount in controversy shall exceed one hundred dollars, nor in a criminal cause where the punishment shall exceed three months imprisonment, or a fine of over one hundred dollars, nor in any cause involving the title to real estate.

SEC. 9. All Judges other than those provided for in this Constitution shall be elected by the electors of the Judicial District, County or City, for which they shall be created, nor for a longer term than seven years.

SEC. 10. In case the office of any Judge shall become vacant before the expiration of the regular term for which he was elected, the vacancy shall be filled by appointment by the Governor until a a successor is elected and qualified. And such successor shall be elected at the first annual election that occurs more than thirty days after the vacancy shall have happened.

SEC. 11. The Justices of the Supreme Court and the District Courts shall hold no office under the United States, nor any other office under this State. And all votes for either of them for any elective office under this Constitution, except a Judicial office,

given by the Legislature or the people, during their continuance in office, shall be void.

SEC. 12. The Legislature may at any time change the number of Judicial Districts or their boundaries, when it shall be deemed expedient, but no such change shall vacate the office of any Judge.

SEC. 13. There shall be elected in each County where a District Court shall be held, one Clerk of said Court, whose qualifications, duties and compensation shall be prescribed by law, and whose term of office shall be four years.

SEC. 14. Legal pleadings and proceedings in the Courts of this State shall be under the direction of the Legislature. The style of all process shall be "The State of Minnesota," and all indictments shall conclude "against the peace and dignity of the State of Minnesota."

SEC. 15. The Legislature may provide for the election of one person in each organized County in this State, to be called a Court Commissioner, with judicial power and jurisdiction not exceeding the power and jurisdiction of a Judge of the District Court at Chambers; or the Legislature may, instead of such election, confer such power and jurisdiction upon Judges of Probate in the State.

ARTICLE SEVENTH—*Elective Franchise.*

SECTION 1. Every male person of the age of twenty-one years or upwards, belonging to either of the following classes, who shall have resided in the United States one year, and in this State for four months next preceding any election, shall be entitled to vote at such election, in the Election District of which he shall at the time have been for ten days a resident, for all officers that now are, or hereafter may be, elective by the people.

First. White citizens of the United States.

Second. White persons of foreign birth, who shall have declared their intention to become citizens, conformably to the laws of the United States upon the subject of naturalization.

Third. Persons of mixed white and Indian blood, who have adopted the customs and habits of civilization.

Fourth. Persons of Indian blood residing in this State, who have adopted the language, customs, and habits of civilization, after an examination before any District Court of the State, in such manner as may be provided by law, and shall have been pronounced by said Court capable of enjoying the rights of citizenship within the State.

SEC. 2. No person not belonging to one of the classes specified

in the preceding Section ; no person who has been convicted of treason or any felony, unless restored to civil rights, and no person under guardianship, or who may be *non compos mentis* or insane, shall be entitled or permitted to vote at any election in this State.

SEC. 3. For the purpose of voting, no person shall be deemed to have lost a residence by reason of his absence while employed in the service of the United States ; nor while engaged upon the waters of this State or of the United States ; nor while a student of any seminary of learning ; nor while kept at any alms-house or asyulm ; nor while confined in any public prison.

SEC. 4. No soldier, seaman, or marine in the army or navy of the United States, shall be deemed a resident of this State in consequence of being stationed within the same.

SEC. 5. During the day on which any election shall be held, no person shall be arrested by virtue of any civil process.

SEC. 6. All elections shall be by ballot, except for such town officers as may be directed by law to be otherwise chosen.

SEC. 7. Every person who, by the provisions of this Article, shall be entitled to vote at any election, shall be eligible to any office which now is, or hereafter shall be, elective by the people in the district wherein he shall have resided thirty days previous to such election, except as otherwise provided in this Constitution, or the Constitution and Laws of the United States.

ARTICLE EIGHTH—*School Funds, Education and Science.*

SECTION 1. The stability of a Republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the Legislature to establish a general and uniform system of Public Schools.

SEC. 2. The proceeds of such lands as are or hereafter may be granted by the United States for the use of Schools within each township in this State, shall remain a perpetual School Fund to the State, and not more than one-third (1-3) of said lands may be sold in (2) years, one-third (1-3) in five (5) years, and one-third (1-3) in ten (10) years ; but the lands of the greatest valuation shall be sold first, provided that no portion of said lands shall be sold otherwise than at public sale. The principal of all funds arising from sales, or other disposition of lands, or other property, granted or entrusted to this State in each township for educational purposes, shall forever be preserved inviolate and undiminished ; and the income arising from the lease or sale of said School Lands, shall be distributed to the different townships throughout the State, in proportion to the number of scholars in each township between the

ages of five and twenty-one years, and shall be faithfully applied to the specific objects of the original grants or appropriations.

SEC. 3. The Legislature shall make such provisions, by taxation or otherwise, as, with the income arising from the school fund, will secure a thorough and efficient system of Public Schools in each township in the State.

SEC. 4. The location of the University of Minnesota, as established by existing laws, is hereby confirmed, and said institution is hereby declared to be the University of the State of Minnesota. All the rights, immunities, franchises and endowments heretofore granted or conferred, are hereby perpetuated unto the said University, and all lands which may be granted hereafter by Congress, or other donations for said University purposes, shall vest in the institution referred to in this Section.

ARTICLE NINTH—*Finances of the State, and Banks and Banking.*

SECTION 1. All taxes to be raised in this State shall be as nearly equal as may be, and all property on which taxes are to be levied shall have a cash valuation, and be equalized and uniform throughout the State.

SEC. 2. The Legislature shall provide for an Annual Tax sufficient to defray the estimated expenses of the State for each year, and whenever it shall happen that such ordinary expenses of the State for any year shall exceed the income of the State for such year, the Legislature shall provide for levying a Tax for the ensuing year sufficient, with other sources of income, to pay the deficiency of the preceding year, together with the estimated expenses of such ensuing year.

SEC. 3. Laws shall be passed taxing all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, and also all real and personal property, according to its true value in money; but public burying grounds, public school houses, public hospitals, academies, colleges, universities, and all seminaries of learning, all churches, church property used for religious purposes, and houses of worship, institutions of purely public charity, public property used exclusively for any public purpose, and personal property to an amount not exceeding in value two hundred dollars for each individual, shall, by general laws, be exempt from taxation.

SEC. 4. Laws shall be passed for taxing the notes and bills discounted or purchased, moneys loaned, and all other property effects or dues of every description, of all banks, and of all bank-

ers ; so that all property employed in banking shall always be subject to a taxation equal to that imposed on the property of individuals.

SEC. 5. For the purpose of defraying extraordinary expenditures, the State may contract public debts, but such debts shall never in the aggregate exceed two hundred and fifty thousand dollars ; every such debt shall be authorized by law, for some single object to be distinctly specified therein ; and no such law shall take effect until it shall have been passed by the vote of two-thirds of the members of each branch of the Legislature, to be recorded by yeas and nays on the Journals of each House respectively ; and every such law shall levy a tax annually sufficient to pay the annual interest of such debt, and also a tax sufficient to pay the principal of such debt within ten years from the final passage of such law, and shall specially appropriate the proceeds of such taxes to the payment of such principal and interest ; and such appropriation and taxes shall not be repealed, postponed or diminished, until the principal and interest of such debt shall have been wholly paid. The State shall never contract any debts for works of internal improvement, or be a party in carrying on such works, except in cases where grants of land or other property shall have been made to the State, especially dedicated by the grant to specific purposes, and in such cases the State shall devote thereto the avails of such grants, and may pledge or appropriate the revenues derived from such works in aid of their completion.

SEC. 6. All debts authorized by the preceding section shall be contracted by loan on State Bonds of amounts not less than five hundred dollars each, on interest, payable within ten years after the final passage of the law authorizing such debt, and such bonds shall not be sold by the State under par. A correct registry of all such bonds shall be kept by the Treasurer, in numerical order, so as always to exhibit the number and amount unpaid, and to whom severally made payable.

SEC. 7. The State shall never contract any public debt, unless in time of war, to repel invasion or suppress insurrection, except in the cases and in the manner provided in the fifth and sixth sections of this Article.

SEC. 8. The money arising from any loan made or debt or liability contracted, shall be applied to the object specified in the act authorizing such debt or liability, or to the re-payment of such debt or liability, and to no other purpose whatever.

SEC. 9. No money shall ever be paid out of the Treasury of this State, except in pursuance of an appropriation by law.

SEC. 10. The credit of the State shall never be given or loaned in aid of any individual, association or corporation.

SEC. 11. There shall be published by the Treasurer, in at least one newspaper printed at the seat of government, during the first week of January in each year, and in the next volume of the Acts of the Legislature, detailed statements of all moneys drawn from the Treasury during the preceding year, for what purpose, and to whom paid, and by what law authorized, and also of all moneys received, and by what authority, and from whom.

SEC. 12. Suitable laws shall be passed by the Legislature for the safe keeping, transfer, and disbursement of the State and School funds, and all officers and other persons charged with the same shall be required to give ample security for all moneys and funds of any kind, to keep an accurate entry of each sum received, and of each payment and transfer, and if any of said officers or other persons shall convert to his own use in any form, or shall loan with or without interest, contrary to law, or shall deposit in banks, or exchange for other funds, any portion of the funds of the State, every such act shall be adjudged to be an embezzlement of so much of the State funds as shall be thus taken, and shall be declared a felony; and any failure to pay over or produce the State or School funds intrusted to such persons, on demand, shall be held and taken to be *prima facie* evidence of such embezzlement.

SEC. 13. The Legislature may, by a two-thirds vote, pass a General Banking Law, with the following restrictions and requirements, viz:

First, The Legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments by any person, association or corporation issuing bank notes of any description.

Second, The Legislature shall provide by law for the registry of all bills or notes issued or put in circulation as money, and shall require ample security in United States stock or State stocks for the redemption of the same in specie, and in case of a depreciation of said stocks, or any part thereof, to the amount of ten per cent. or more on the dollar, the bank or banks owning said stock shall be required to make up said deficiency by additional stocks.

Third, The stockholders in any corporation and joint association for banking purposes issuing bank notes, shall be individually liable in an amount equal to double the amount of stock owned by them for all debts of such corporation or association, and such individual liability shall continue for one year after any transfer or sale of stock by any stockholder or stockholders.

Fourth, In case of the insolvency of any bank or banking association, the bill-holders thereof shall be entitled to perference in payment over all other creditors of such bank or association.

Fifth, Any General Banking Law which may be passed in accordance with this Article, shall provide for recording the names of all stockholders in such corporation, the amount of stock held by each, the time of transfer, and to whom transferred.

ARTICLE TENTH—*Of Corporations having no Banking Privileges.*

SECTION 1. The term "Corporations," as used in this Article, shall be construed to include all associations and joint stock companies having any of the powers and privileges not possessed by individuals or partnerships, except such as embrace banking privileges, and all corporations shall have the right to sue, and shall be liable to be sued in all courts in like manner as natural persons.

SEC. 2. No corporation shall be formed under special acts, except for municipal purposes.

SEC. 3. Each stockholder in any corporation shall be liable to the amount of the stock held or owned by him.

SEC. 4. Lands may be taken for public way, for the purpose of granting to any corporation the franchise of way for public use. In all cases, however, a fair and equitable compensation shall be paid for such land, and the damages arising from the taking of the same; but all corporations being common carriers, enjoying the right of way in pursuance of the provisions of this section, shall be bound to carry the mineral, agricultural and other productions or manufactures on equal and reasonable terms.

ARTICLE ELEVENTH—*Counties and Townships.*

SECTION 1. The Legislature may from time to time, establish and organize new counties, but no new county shall contain less than four hundred square miles; nor shall any county be reduced below that amount; and all laws changing county lines in counties already organized, or for removing county seats, shall, before taking effect, be submitted to the electors of the county or counties to be affected thereby, at the next general election after the passage thereof, and be adopted by a majority of such electors. Counties now established may be enlarged, but not reduced below four hundred (400) square miles.

SEC. 2. The Legislature may organize any city into a separate county when it has attained a population of twenty thousand inhab-

itants, without reference to geographical extent, when a majority of the electors of the county in which such city may be situated, voting thereon, shall be in favor of a separate organization.

SEC. 3. Laws may be passed providing for the organization, for municipal and other town purposes, of any Congressional or fractional townships in the several counties in the State, provided that when a township is divided by county lines, or does not contain one hundred inhabitants, it may be attached to one or more adjoining townships or parts of townships, for the purposes aforesaid.

SEC. 4. Provision shall be made by law for the election of such County or Township officers as may be necessary.

SEC. 5. Any County and Township organization shall have such powers of local taxation as may be prescribed by law.

SEC. 6. No money shall be drawn from any County or Township treasury except by authority of law.

ARTICLE TWELFTH—*Of the Militia.*

SECTION 1. It shall be the duty of the Legislature to pass such laws for the organization, discipline, and service of the Militia of the State as may be deemed necessary.

ARTICLE THIRTEENTH—*Impeachment and Removal from Office.*

SECTION 1. The Governor, Secretary of State, Treasurer, Auditor, Attorney General, and the Judges of the Supreme and District Courts, may be impeached for corrupt conduct in office, or for crimes and misdemeanors; but judgment in such case shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust or profit, in this State. The party convicted thereof shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

SEC. 2. The Legislature of this State may provide for the removal of inferior officers from office, for malfeasance or nonfeasance in the performance of their duties.

SEC. 3. No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

SEC. 4. On the trial of an impeachment against the Governor, the Lieutenant Governor shall not act as a member of the Court.

SEC. 5. No person shall be tried on impeachment before he shall have been served with a copy thereof at least twenty days previous to the day set for trial.

ARTICLE FOURTEENTH—*Amendments to the Constitution.*

SECTION 1. Whenever a majority of both Houses of the Legislature shall deem it necessary to alter or amend this Constitution, they may propose such alterations or amendments, which proposed amendments shall be published with the laws which have been passed at the same session, and said amendments shall be submitted to the people for their approval or rejection; and if it shall appear in a manner to be provided by law, that a majority of voters present and voting shall have ratified such alterations or amendments, the same shall be valid to all intents and purposes, as a part of this Constitution. If two or more alterations or amendments shall be submitted at the same time, it shall be so regulated that the voters shall vote for or against each separately.

SEC. 2. Whenever two-thirds of the members elected to each branch of the Legislature shall think it necessary to call a Convention to revise this Constitution, they shall recommend to the electors to vote, at the next election, for members of the Legislature, for or against a Convention; and if a majority of all the electors voting at said election shall have voted for a Convention, the Legislature shall, at their next session, provide by law for calling the same. The Convention shall consist of as many members as the House of Representatives, who shall be chosen in the same manner, and shall meet within three months after their election for the purpose aforesaid.

ARTICLE FIFTEENTH—*Miscellaneous Subjects.*

SECTION 1. The seat of Government of the State shall be at the City of St. Paul, but the Legislature at their first, or any future session, may provide by law for a change of the seat of Government by a vote of the people, or may locate the same upon the land granted by Congress, for a seat of Government to the State, and in the event of the seat of Government being removed from the City of St. Paul to any other place in the State, the Capitol building and grounds shall be dedicated to an institution for the promotion of science, literature and the arts, to be organized by the Legislature of the State, and of which institution the Minnesota Historical Society shall always be a department.

SEC. 2. Persons residing on Indian lands within the State shall enjoy all the rights and privileges of citizens as though they lived in any other portion of the State, and shall be subject to taxation.

SEC. 3. The Legislature shall provide for a uniform oath or

affirmation to be administered at elections, and no person shall be compelled to take any other or different form of oath to entitle him to vote.

SEC. 4. There shall be a seal of the State, which shall be kept by the Secretary of State, and be used by him officially, and shall be called by him the Great Seal of the State of Minnesota, and shall be attached to all official acts of the Governor (his signature to acts and resolves of the Legislature excepted) requiring authentication. The Legislature shall provide for an appropriate device and motto for said seal.

SEC. 5. The Territorial prison as located under existing laws shall, after the adoption of this Constitution, be and remain one of the State prisons of the State of Minnesota.

SCHEDULE.

SECTION 1. That no inconvenience may arise by reason of a change from a Territorial to a permanent State Government, it is declared that all rights, actions, prosecutions, judgments, claims and contracts, as well of individuals as of bodies corporate, shall continue as if no change had taken place; and all process which may be issued under the authority of the Territory of Minnesota previous to its admission into the Union of the United States, shall be as valid as if issued in the name of the State.

SEC. 2. All laws now in force in the Territory of Minnesota not repugnant to this Constitution, shall remain in force until they expire by their own limitation, or be altered or repealed by the Legislature.

SEC. 3. All fines, penalties or forfeitures accruing to the Territory of Minnesota, shall inure to the State.

SEC. 4. All recognizances heretofore taken, or which may be taken before the change from a Territorial to a permanent State Government shall remain valid, and shall pass to and may be prosecuted in the name of the State, and all bonds executed to the Governor of the Territory, or to any other officer or court in his or their official capacity, shall pass to the Governor or State authority, and their successors in office, for the uses therein respectively expressed; and may be sued for and recovered accordingly: and all the estate of property, real, personal or mixed, and all judgments, bonds, specialties, choses in action, and claims and debts of whatsoever description, of the Territory of Minnesota, shall inure to and vest in the State of Minnesota, and may be sued for and recovered in the same manner and to the same extent by the State of Minnesota as the same could have been by the Territory of Min-

nesota. All criminal prosecutions and penal actions which may have arisen or which may arise before the change from a Territorial to a State government, and which shall then be pending, shall be prosecuted to judgment and execution in the name of the State. All offenses committed against the laws of the Territory of Minnesota before the change from a Territorial to a State Government, and which shall not be prosecuted before such change, may be prosecuted in the name and by the authority of the State of Minnesota, with like effect as though such change had not taken place, and all penalties incurred shall remain the same as if this Constitution had not been adopted. All actions at law and suits in equity which may be pending in any of the Courts of the Territory of Minnesota at the time of the change from a Territorial to a State Government, may be continued and transferred to any Court of the State which shall have jurisdiction of the subject-matter thereof.

SEC. 5. All Territorial officers, civil and military, now holding their offices under the authority of the United States or the Territory of Minnesota, shall continue to hold and exercise their respective offices until they shall be superseded by the authority of the State.

SEC. 6. The first session of the Legislature of the State of Minnesota shall commence on the first Wednesday of December next, and shall be held at the Capitol in the City of St. Paul.

SEC. 7. The laws regulating the election and qualification of all District, County and Precinct officers, shall continue and be in force until the Legislature shall otherwise provide by law.

SEC. 8. The President of the Convention, shall, immediately after the adjournment thereof, cause this Constitution to be deposited in the office of the Governor of the Territory: and if after the submission of the same to a vote of the people, as hereinafter provided, it shall appear that it has been adopted by a vote of the people of the State, then the Governor shall forward a certified copy of the same, together with an abstract of the votes polled for and against the said Constitution, to the President of the United States, to be by him laid before the Congress of the United States.

SEC. 9. For the purposes of the first election, the State shall constitute one district, and shall elect three members to the House of Representatives of the United States.

SEC. 10. For the purposes of the first election for members of State Senate and the House of Representatives, the State shall be divided into Senatorial and Representative Districts, as follows, viz: 1st District, Washington county; 2d District, Ramsey county; 3d District, Dakota county; 4th District, so much of Hennepin county

as lies west of the Mississippi; 5th District, Rice county; 6th District, Goodhue county; 7th District, Scott county; 8th District, Olmsted county; 9th District, Fillmore county; 10th District, Houston county; 11th District, Winona county; 12th District, Wabashaw county; 13th District, Mower and Dodge counties; 14th District, Freeborn and Faribault counties; 15th District, Steele and Waseca counties; 16th District, Blue Earth and Le Sueur counties; 17th District, Nicollet and Brown counties; 18th District, Sibley, Renville, and McLeod counties; 19th District, Carver and Wright counties; 20th District, Benton, Stearns, and Meeker counties; 21st District, Morrison, Crow Wing, and Mille Lac counties; 22d District, Cass, Pembina, and Tod counties; 23d District, so much of Hennepin county as lies east of the Mississippi; 24th District, Sherburne, Anoka, and Manomin counties; 25th District, Chisago, Pine, and Isanti counties; 26th District, Buchanan, Carlton, St. Louis, Lake, and Itasca counties.

SEC. 11. The counties of Brown, Stearns, Tod, Cass, Pembina, and Renville, as applied in the preceding Section, shall not be deemed to include any Territory west of the State line, but shall be deemed to include all counties and parts of counties east of said line as were created out of the Territory of either, at the last Session of the Legislature.

SEC. 12. The Senators and Representatives at the first election shall be apportioned among the several Senatorial and Representative Districts as follows, to wit:

1st	District	2	Senators	3	Representatives.
2d	"	3	"	6	"
3d	"	2	"	5	"
4th	"	2	"	4	"
5th	"	2	"	3	"
6th	"	1	"	4	"
7th	"	1	"	3	"
8th	"	2	"	4	"
9th	"	2	"	6	"
10th	"	2	"	3	"
11th	"	2	"	4	"
12th	"	1	"	3	"
13th	"	2	"	3	"
14th	"	1	"	3	"
15th	"	1	"	4	"
16th	"	1	"	3	"
17th	"	1	"	3	"
18th	"	1	"	3	"
19th	"	1	"	3	"
20th	"	1	"	3	"
21st	"	1	"	1	"
22d	"	1	"	1	"

23d	"	.....	1	Senator.....	2	Representatives.
24th	"	.....	1	"	1	"
25th	"	.....	1	"	1	"
26th	"	.....	1	"	1	"
			37		80	

SEC. 13. The returns from the 22nd District shall be made to, and canvassed by the Judges of Election at the precinct of Otter Tail City.

SEC. 14. Until the Legislature shall otherwise provide the State shall be divided into Judicial Districts as follows, viz :

The counties of Washington, Chisago, Manomin, Anoka, Itaski, Pine, Buchanan, Carlton, St. Louis, and Lake, shall constitute the First Judicial District.

The county of Ramsey shall constitute the Second Judicial District.

The counties of Houston, Winona, Fillmore, Olmsted, and Wabashaw, shall constitute the Third Judicial District.

The counties of Hennepin, Carver, Wright, Meeker, Sherburne, Benton, Stearns, Morrison, Crow Wing, Mille Lac, Itasca, Pembina, Tod, and Cass, shall constitute the Fourth Judicial District.

The counties of Dakota, Goodhue, Scott, Rice, Steele, Waseca, Dodge, Mower, and Freeborn, shall constitute the Fifth Judicial District.

The counties of Le Sueur, Sibley, Nicollet, Blue Earth, Faribault, McLeod, Renville, Brown, and other counties in the State, not included within the other Districts, shall constitute the Sixth Judicial District.

SEC. 15. Each of the foregoing enumerated Judicial Districts may, at the first election, elect one Prosecuting Attorney for the District.

SEC. 16. Upon the second Tuesday, the 13th day of October, 1857, an Election shall be held for members of the House of Representatives of the United States, Governor, Lieutenant Governor, Supreme and District Judges, Members of the Legislature, and all other officers designated in this Constitution, and also for the submission of this Constitution to the people for their adoption or rejection.

SEC. 17. Upon the day so designated as aforesaid, every free white male inhabitant over the age of twenty-one years, who shall have resided within the limits of the State for ten days previous to the day of said election, may vote for all officers to be elected under this Constitution at such election, and also for or against the adoption of this Constitution.

SEC. 18. In voting for or against the adoption of this Constitution, the words "for Constitution," or "against Constitution," may be written or printed on the ticket of each voter; but no voter shall vote for or against this Constitution on a separate ballot from that cast by him for officers to be elected at said election under this Constitution; and if, upon the canvass of the votes s

polled it shall appear that there was a greater number of votes polled for than against said Constitution, then this Constitution shall be deemed to be adopted as the Constitution of the State of Minnesota; and all the provisions and obligations of this Constitution, and of the Schedule hereunto attached, shall thereafter be valid to all intents and purposes as the Constitution of said State.

SEC. 19. At said election the polls shall be opened, the election held, returns made and certificates issued in all respects as provided by law for opening, closing and conducting elections and making returns of the same, except as hereinbefore specified, and excepting also that polls may be opened and elections held at any point or points, in any of the counties where precincts may be established as provided by law, ten days previous to the day of election, not less than ten miles from the place of voting in any established precinct.

SEC. 20. It shall be the duty of the Judges and Clerks of Election, in addition to the returns required by law for each precinct, to forward to the Secretary of the Territory by mail, immediately after the close of the election, a certified copy of the poll book containing the name of each person who has voted in the precinct, and the number of votes polled for and against the adoption of this Constitution.

SEC. 21. The returns of said election for and against this Constitution, and for all State officers and members of the House of Representatives of the United States, shall be made, and certificates issued in the manner now prescribed by law for returning votes given for Delegate to Congress, and the returns for all District officers, Judicial, Legislative or otherwise, shall be made to the Register of Deeds of the senior county in each District, in the manner prescribed by law, except as otherwise provided. The returns for all officers elected at large shall be canvassed by the Governor of the Territory, assisted by JOSEPH R. BROWN and THOMAS J. GALBRAITH, at the time designated by law for canvassing the vote for Delegate to Congress.

SEC. 22. If, upon canvassing the votes for and against the adoption of this Constitution, it shall appear that there has been polled a greater number of votes against than for it, then no certificates of election shall be issued for any State or District officer provided for in this Constitution, and no State organization shall have validity within the limits of the Territory until otherwise provided for, and until a Constitution for a State Government shall have been adopted by the people.

Done in Convention, this twenty-ninth day of August, one thousand eight hundred and fifty-seven, and of the Independence of the United States the eighty-second year. In witness whereof, we have hereunto subscribed our names, at the Capitol, in the City of St. Paul, this twenty-ninth day of August, in the year of our Lord one thousand eight hundred and fifty-seven.

HENRY H. SIBLEY, of Dakota County,
President of the Constitutional Convention of Minnesota.

WILLIAM HOLCOMBE, of Washington County,
JAMES S. NORRIS, " "
HENRY N. SETZER, " "
GOLD T. CURTIS, " "
NEWINGTON GILBERT, " "
CHARLES J. BUTLER, " "
R. H. SANDERSON, " "
GEORGE L. BECKER, of Ramsey County,
MOSES SHERBURNE, " "
LAFAYETTE EMMETT, " "
WILLIAM P. MURRAY, " "
WILLIS A. GORMAN, " "
JOHN S. PRINCE, " "
PATRICK NASH, " "
WILLIAM B. McGRORTY, " "
PAUL FABER, " "
MICHAEL E. AMES, " "
B. B. MEEKER, of Hennepin County,
CHARLES L. CHASE, " "
CALVIN A. TUTTLE, " "
WILLIAM M. LASHELLE, " "
EDWIN C. STACEY, of Freeborn County,
DAVID GILMAN, of Benton County,
H. C. WAIT, of Stearns County,
J. C. SHEPLEY, " "
JOHN W. TENVOORDE, " "
WILLIAM STURGIS, of Morrison County,
W. W. KINGSBURY, of St. Louis County,
R. H. BARRETT, " "
ROBERT KENNEDY, of Scott County,
FRANK WARNER, " "
WILLIAM A. DAVIS, " "
DANIEL J. BURNS, of Dakota County,
JOSIAH BURWELL, " "
HENRY G. BAILLY, " "
ANDREW KEEGAN, " "
JAMES McFETRIDGE, of Pembina County,
J. JEROME, " "
XAVIER CANTELL, " "
JOSEPH ROLETTE, " "
LOUIS VASSEUR, " "
J. P. WILSON, " "
JAMES C. DAY, of Houston County,
O. W. STREETER, " "
THOMAS H. ARMSTRONG, of Mower County,
JOSEPH R. BROWN, of Sibley County,
CHARLES E. FLANDRAU, of Nicollet County,
FRANCIS BAASEN, of Brown County,
WILLIAM B. McMAHAN, of Blue Earth County.
J. H. SWAN, of Le Sueur County,
ALFRED E. AMES, of Hennepin County.

Attest:
J. J. NOAH,
Secretary of the Constitutional Convention.

VOTE UPON THE CONSTITUTION.

Counties.	Canvassers' Return.		Precinct Returns.	
	For	Ags't.	For	Ags't
Anoka	477	10	477	10
Benton	295	3	295	3
Blue Earth	....	....	1,090	29
Brown	488	....	488	....
Carver	845	5	845	5
Cass	....	....	126	5
Chisago	600	....	600	....
Cottonwood	....	....	73	3
Crow Wing	96	1	96	1
Dakota	2,010	6	2,041	6
Davis	....	....	35	....
Dodge	....	....	812	16
Faribault	219	2	219	2
Fillmore	1,874	60	1,874	60
Freeborn	635	3	635	3
Goodhue	1,810	12	1,810	12
Hennepin	3,662	70	3,662	70
Houston	1,188	8	1,188	8
Isanti	19	....	19	....
Lake	....	....	86	6
Le Sueur	819	87	819	87
Manomin	113	....	113	....
Martin	....	....	31	....
McLeod	206	....	220	....
Meeker	194	1	194	1
Mille Lac	11	9	11	9
Morrison	304	9	304	9
Mower	639	14	656	14
Murray	....	....	66	....
Nicollet	....	....	958	10
Olmsted	1,343	11	1,629	13
Pembina	313	....	313	....
Pierce	....	....	25	....
Pine	50	....	50	....
Ramsey	2,567	4	3,608	8
Renville	....	....	119	....
Rice	1,798	14	1,798	14
Rock	....	....	37	....
Scott	943	9	1,393	11
Sherburne	94	....	94	....
Sibley	663	10	663	10
Stearns	354	14	354	14
Steele	613	69	624	69
St. Louis	....	....	93	44
Tod	102	11	102	11
Wabashaw	583	10	889	10
Waseca	509	34	509	34
Washington	1,662	25	1,875	26
Winona	1,362	8	1,621	15
Wright	605	52	605	52
Total	30,055	571	36,240	700

Note.—The vote under the heading of the Canvassers' Return is the official count as declared by the Board of Canvassers designated in the Schedule. Their return was made up from the returns of the Register, who in several instances failed to return the vote for and against the Constitution. The vote under the heading of Precinct Returns embraces the whole vote of the State upon the Constitution, and is compiled from the Precinct returns in the Secretary's office so far as they were received; and where these returns have failed to show the full vote, the Register's Canvass has been taken.

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