

1820

The Debates, Resolutions, and Other Proceedings,
of the Convention of Delegates, Assembled at
Portland on the 11th, and Continued Until the
29th Day of October, 1819, for the Purpose of
Forming a Constitution for the State of Maine. To
Which is Prefixed The Constitution. Taken in
Convention.

Jeremiah Perley

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(1921)

THE
DEBATES,

RESOLUTIONS, AND OTHER PROCEEDINGS,

OF THE

CONVENTION OF DELEGATES,

ASSEMBLED AT PORTLAND ON THE 11TH, AND CONTINUED UNTIL
THE 29TH DAY OF OCTOBER, 1819, FOR THE PURPOSE OF
FORMING A CONSTITUTION FOR THE

STATE OF MAINE.

TO WHICH IS PREFIXED

THE CONSTITUTION.

TAKEN IN CONVENTION.

BY JEREMIAH PERLEY,
COUNSELLOR AT LAW.

PORTLAND :
A. SHIRLEY, PRINTER.

.....
1820.

DISTRICT OF MAINE, ss.

Be it remembered that on this twenty fifth day of November, in the year of our Lord one thousand eight hundred and nineteen and the forty fourth year of the Independence of the United States of America, Jeremiah Perley, of the District of Maine, has deposited in this office the title of a book, the right whereof he claims as Proprietor in the words following : viz.

" The Debates, Resolutions, and other proceedings of the Convention of Delegates, assembled at Portland on the 11th and continued until the 29th day of October, 1819, for the purpose of forming a constitution for the STATE OF MAINE. To which is prefixed the Constitution. Taken in Convention, by Jeremiah Perley, Counsellor at Law. Portland : Printed by A. Shirley. 1820."

In conformity to the Act of the Congress of the United States, entitled, " An Act for the encouragement of Learning, by securing the copies of maps, charts and books to the authors and proprietors of such copies, during the times therein mentioned." And also to an act entitled, " An Act supplementary to an act entitled an Act for the encouragement of Learning, by securing the copies of maps, charts and books to the authors and proprietors of such copies, during the times therein mentioned; and extending the benefits thereof to the arts of designing, engraving and etching historical and other prints."

JOHN MUSSEY, Jr. { *Clerk of the District
Court, Maine.*

A true copy as of record,

Attest, J. MUSSEY, Jr. *Clerk D. C. M.*

ADVERTISEMENT.

IN presenting to the public an account of the proceedings of the Convention, which framed the Constitution for the New State, regard has been had, not only to the gratification of a liberal curiosity, but to the preservation of an authentic record for future times. The assembling of that venerable body, was the most interesting event in our history. The object of their meeting was the most important, that can be undertaken, by men who enjoy the inestimable blessing of self-government. They were to lay the foundations of the state—and the result of their labors was to be an *Act*, which, if acceptable to the people, was to endure, and to influence their happiness, for ages. The deliberations of such an Assembly, though happily for Americans, not a novel spectacle, yet must be viewed with the deepest interest, especially by those for whom they were acting. That interest is by no means impaired by the candor, magnanimity, and good feelings which characterised their proceedings. They are auspicious of that ingenious and enlightened spirit, which it is so ardently to be desired, may distinguish the organizing and administering of the new government.

It is surely desirable, that some memorial should exist, besides the constitution itself, of the means by which so many opposite opinions were reconciled, and the efforts by which that important instrument was matured. It is easy to conceive, what instruction would be derived, from a faithful history of the proceedings of that august assembly, which framed the Constitution of the United States. And although most of the fundamental principles of a free government are now too well understood and settled in this country, to have undergone much debate in the late convention, yet the variations from the established forms to which we had been accustomed, and the new provisions, were ably discussed, and their policy illustrated; and to these pages will those recur who are desirous of learning the reasons of their adoption.

The proceedings have been mostly taken from, or compared with,

iv.

the Journal of the Convention, and the Debates from minutes taken at the delivery, and in many instances revised by the speakers. No care or pains have been spared, to render the work perfectly correct ; and to make it a *valuable manual for every citizen of Maine.*

It was thought best not to encumber the book with the first draft of the Constitution as reported, nor the verbal alterations which it underwent ; such important amendments as were adopted, or were proposed and discussed, are duly noticed.

The accompanying documents will not be thought to detract from the value of the publication.

Portland, Dec. 1819.

CONSTITUTION OF MAINE.

WE the people of Maine, in order to establish justice, ensure tranquillity, provide for our mutual defence, promote our common welfare, and secure to ourselves and our posterity the blessings of Liberty, acknowledging with grateful hearts the goodness of the Sovereign Ruler of the Universe in affording us an opportunity so favorable to the design; and imploring his aid and direction in its accomplishment, do agree to form ourselves into a free and independent State, by the style and title of the State of Maine, and do ordain and establish the following Constitution for the government of the same.

ARTICLE I.

DECLARATION OF RIGHTS.

SEC. 1. All men are born equally free and independent, and have certain natural, inherent and unalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness.

SEC. 2. All power is inherent in the people; all free governments are founded in their authority, and instituted for their benefit; they have therefore an unalienable and indefeasible right to institute government, and to alter, reform, or totally change the same, when their safety and happiness require it.

SEC. 3. All men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences, and no one shall be hurt, molested or restrained in his person, liberty or estate, for worshipping God in the manner and season most agreeable to the dictates of his own conscience, nor for his religious professions or sentiments, provided he does not disturb the public peace, nor obstruct others in their religious worship;—and all persons demeaning themselves peaceably, as good members of the State, shall be equally under the protection of the laws, and no subordination nor preference of any one sect or denomination to another shall ever be established by law, nor shall any religious test be required as a qualification for any office or trust, under this State; and all re-

ligious societies in this State, whether incorporate or unincorporate, shall at all times have the exclusive right of electing their public teachers, and contracting with them for their support and maintenance.

SEC. 4. Every citizen may freely speak, write and publish his sentiments on any subject, being responsible for the abuse of this liberty ; no laws shall be passed regulating or restraining the freedom of the press ; and in prosecutions for any publication respecting the official conduct of men in public capacity, or the qualifications of those who are candidates for the suffrages of the people, or where the matter published is proper for public information, the truth thereof may be given in evidence, and in all indictments for libels, the Jury, after having received the direction of the Court, shall have a right to determine, at their discretion, the law and the fact.

SEC. 5. The people shall be secure in their persons, houses, papers and possessions, from unreasonable searches and seizures ; and no warrant to search any place, or seize any person or thing, shall issue without special designation of the place to be searched, and the person or thing to be seized, nor without probable cause, supported by oath or affirmation.

SEC. 6. In all criminal prosecutions, the accused shall have a right to be heard by himself and his counsel, or either, at his election ;

To demand the nature and cause of the accusation, and have a copy thereof ;

To be confronted by the witnesses against him ;

To have compulsory process for obtaining witnesses in his favor ;

To have a speedy, public and impartial trial, and, except in trials by martial law or impeachment, by a Jury of the vicinity. He shall not be compelled to furnish or give evidence against himself, nor be deprived of his life, liberty, property or privileges, but by judgment of his peers, or the law of the land.

SEC. 7. No person shall be held to answer for a capital or infamous crime, unless on a presentment or indictment of a grand jury, except in cases of impeachment, or in such cases of offences, as are usually cognizable by a justice of the peace, or in cases arising in the army or navy, or in the militia when in actual service in time of war or public danger. The Legislature shall provide by law a suitable and impartial mode of selecting juries, and their usual number and unanimity, in indictments and convictions, shall be held indispensable.

SEC. 8. No person, for the same offence, shall be twice put in jeopardy of life or limb.

SEC. 9. Sanguinary laws shall not be passed ; all penalties and punishments shall be proportioned to the offence : excessive bail shall not be required, nor excessive fines imposed, nor cruel nor unusual punishments inflicted

SEC. 10. All persons, before conviction, shall be bailable, except for capital offences, where 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 it.

SEC. 11. The Legislature shall pass no bill of attainder, *ex post facto* law, nor law impairing the obligation of contracts, and no attainder shall work corruption of blood, nor forfeiture of estate.

SEC. 12. Treason against this State shall consist only in levying war against it, 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 confession in open court.

SEC. 13. The laws shall not be suspended but by the Legislature or its authority.

SEC. 14. No person shall be subject to corporeal punishment under military law, except such as are employed in the army or navy, or in the militia when in actual service in time of war or public danger.

SEC. 15. The people have a right at all times in an orderly and peaceable manner to assemble to consult upon the common good, to give instructions to their representatives, and to request, of either department of the government by petition or remonstrance, redress of their wrongs and grievances.

SEC. 16. Every citizen has a right to keep and bear arms for the common defence ; and this right shall never be questioned.

SEC. 17. No standing army shall be kept up in time of peace without the consent of the Legislature, and the military shall, in all cases, and at all times be in strict subordination to the civil power.

SEC. 18. No soldier shall in time of peace be quartered in any house without the consent of the owner or occupant, nor in time of war, but in a manner to be prescribed by law.

SEC. 19. Every person for an injury done him in his per-

son, reputation, property or immunities, shall have remedy by due course of law ; and right and justice shall be administered freely and without sale, completely and without denial, promptly and without delay.

SEC. 20. In all civil suits and in all controversies concerning property, the parties shall have a right to a trial by jury, except in cases where it has heretofore been otherwise practised : the party claiming the right may be heard by himself and his counsel, or either, at his election.

SEC. 21. Private property shall not be taken for public uses without just compensation ; nor unless the public exigencies require it.

SEC. 22. No tax or duty shall be imposed without the consent of the people or of their Representatives in the Legislature.

SEC. 23. No title of nobility or hereditary distinction, privilege, honor or emolument, shall ever be granted or confirmed, nor shall any office be created, the appointment to which shall be for a longer time than during good behaviour.

SEC. 24. The enumeration of certain rights shall not impair nor deny others retained by the people.

ARTICLE II. ELECTORS.

SEC. 1. Every male citizen of the United States of the age of twenty-one years and upwards, excepting paupers, persons under guardianship, and Indians not taxed, having his residence established in this State for the term of three months next preceding any election, shall be an elector for Governor, Senators and Representatives, in the town or plantation where his residence is so established ; and the elections shall be by written ballot. But persons in the military, naval or marine service of the United States, or this State, shall not be considered as having obtained such established residence by being stationed in any garrison, barrack or military place, in any town or plantation ; nor shall the residence of a student at any seminary of learning entitle him to the right of suffrage in the town or plantation where such seminary is established.

SEC. 2. Electors shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest on the days of election, during their attendance at, going to, and returning therefrom.

SEC. 3. No elector shall be obliged to do duty in the militia on any day of election, except in time of war or public danger,

SEC. 4. The election of Governor, Senators and Representatives, shall be on the second Monday of September annually forever.

ARTICLE III. DISTRIBUTION OF POWERS.

SEC. 1. The powers of this Government shall be divided into three distinct Departments, the *Legislative, Executive and Judicial*.

SEC. 2. No person or persons, belonging to one of these Departments, shall exercise any of the powers properly belonging to either of the others, except in the cases herein expressly directed or permitted.

ARTICLE IV—Part First.

Legislative Power—House of Representatives.

SEC. 1. The Legislative power shall be vested in two distinct branches, a House of Representatives, and a Senate, each to have a negative on the other, and both to be styled the *Legislature of Maine*, and the style of their Acts and Laws, shall be, "*Be it enacted by the Senate and House of Representatives in Legislature assembled.*"

SEC. 2. The House of Representatives shall consist of not less than one hundred nor more than two hundred members, to be elected by the qualified electors for one year from the day next preceding the annual meeting of the Legislature. The Legislature, which shall first be convened under this Constitution, shall, on or before the fifteenth day of August in the year of our Lord one thousand eight hundred and twenty-one, and the Legislature, within every subsequent period of at most ten years and at least five, cause the number of the inhabitants of the State to be ascertained, exclusive of foreigners not naturalized, and Indians not taxed. The number of Representatives shall, at the several periods of making such enumeration, be fixed and apportioned among the several counties, as near as may be, according to the number of inhabitants, having regard to the relative increase of population. The number of Representatives shall, on said first apportionment, be not less than one hundred nor more than one hundred and fifty; and, whenever the number of Representatives shall be two hundred, at the next annual meetings of elections, which shall thereafter be had, and at every subsequent period of ten years, the people shall give in their votes, whether the number of Representatives shall be increased or diminished, and if a majority of votes are

in favor thereof, it shall be the duty of the next Legislature thereafter to increase or diminish the number by the rule hereinafter prescribed.

SEC. 3. Each town having fifteen hundred inhabitants may elect one representative ; each town having three thousand seven hundred and fifty may elect two ; each town having six thousand seven hundred and fifty may elect three ; each town having ten thousand five hundred may elect four ; each town having fifteen thousand may elect five ; each town having twenty thousand two hundred and fifty may elect six ; each town having twenty six thousand two hundred and fifty inhabitants may elect seven ; but no town shall ever be entitled to more than seven representatives : and towns and plantations duly organized, not having fifteen hundred inhabitants, shall be classed, as conveniently as may be, into districts containing that number, and so as not to divide towns ; and each such district may elect one representative ; and, when on this apportionment the number of representatives shall be two hundred, a different apportionment shall take place upon the above principle ; and, in case the fifteen hundred shall be too large or too small to apportion all the representatives to any county, it shall be so increased or diminished as to give the number of representatives according to the above rule and proportion ; and whenever any town or towns, plantation or plantations not entitled to elect a representative shall determine against a classification with any other town or plantation, the Legislature may, at each apportionment of representatives, on the application of such town or plantation, authorize it to elect a representative for such portion of time and such periods, as shall be equal to its portion of representation ; and the right of representation, so established, shall not be altered until the next general apportionment.

SEC. 4. No person shall be a member of the House of Representatives, unless he shall, at the commencement of the period for which he is elected, have been five years a citizen of the United States, have arrived at the age of twenty one years, have been a resident in this State one year, or from the adoption of this Constitution ; and, for the three months next preceding the time of his election shall have been, and, during the period for which he is elected, shall continue to be a resident in the town or district which he represents.

SEC. 5 The meetings for the choice of representatives shall be warned in due course of law by the selectmen of the several

towns seven days at least before the election, and the selectmen thereof shall preside impartially at such meetings, receive the votes of all the qualified electors present, sort, count and declare them in open town meeting, and in the presence of the town clerk, who shall form a list of the persons voted for, with the number of votes for each person against his name, shall make a fair record thereof in the presence of the selectmen, and in open town meeting; and a fair copy of this list shall be attested by the selectmen and town clerk, and delivered by said selectmen to each representative within ten days next after such election. And the towns and plantations organized by law, belonging to any class herein provided, shall hold their meetings at the same time in the respective towns and plantations; and the town and plantation meetings in such towns and plantations shall be notified, held and regulated, the votes received, sorted, counted and declared in the same manner. And the assessors and clerks of plantations shall have all the powers, and be subject to all the duties, which selectmen and town clerks have, and are subject to by this Constitution. And the selectmen of such towns, and the assessors of such plantations, so classed, shall, within four days next after such meeting, meet at some place, to be prescribed and notified by the selectmen or assessors of the eldest town, or plantation, in such class, and the copies of said lists shall be then examined and compared; and in case any person shall be elected by a majority of all the votes, the selectmen or assessors shall deliver the certified copies of such lists to the person so elected, within ten days next after such election; and the clerks of towns and plantations respectively shall seal up copies of all such lists and cause them to be delivered into the Secretary's office twenty days at least before the first Wednesday in January annually; but in case no person shall have a majority of votes, the selectmen and assessors shall, as soon as may be, notify another meeting, and the same proceedings shall be had at every future meeting until an election shall have been effected: *Provided*, That the Legislature may by law prescribe a different mode of returning, examining and ascertaining the election of the representatives in such classes.

SEC. 6. Whenever the seat of a member shall be vacated by death, resignation, or otherwise, the vacancy may be filled by a new election.

SEC. 7. The House of Representatives shall choose their Speaker, Clerk and other officers.

SEC. 8. The House of Representatives shall have the sole power of impeachment.

ARTICLE IV.—*Part Second.*
SENATE.

SEC. 1. The Senate shall consist of not less than twenty, nor more than thirty-one members, elected at the same time, and for the same term, as the representatives, by the qualified electors of the districts, into which the State shall from time to time be divided.

SEC. 2. The Legislature, which shall be first convened under this Constitution, shall, on or before the fifteenth day of August in the year of our Lord one thousand eight hundred and twenty-one, and the Legislature at every subsequent period of ten years, cause the state to be divided into districts for the choice of Senators. The districts shall conform, as near as may be, to county lines, and be apportioned according to the number of inhabitants. The number of Senators shall not exceed twenty at the first apportionment, and shall at each apportionment be increased, until they shall amount to thirty-one, according to the increase in the House of Representatives.

SEC. 3. The meetings for the election of Senators shall be notified, held and regulated, and the votes received, sorted, counted, declared and recorded, in the same manner as those for Representatives. And fair copies of the lists of votes shall be attested by the selectmen and town clerks of towns, and the assessors and clerks of plantations, and sealed up in open town and plantation meetings; and the town and plantation clerks respectively shall cause the same to be delivered into the Secretary's office thirty days at least before the first Wednesday of January. All other qualified electors, living in places unincorporated, who shall be assessed to the support of government by the assessors of an adjacent town, shall have the privilege of voting for Senators, Representatives and Governor in such town; and shall be notified by the selectmen thereof for that purpose accordingly.

SEC. 4. The Governor and Council shall, as soon as may be, examine the returned copies of such lists, and, twenty days before the said first Wednesday of January, issue a summons to such persons, as shall appear to be elected by a majority of the votes in each district, to attend that

day and take their seats.

SEC. 5. The Senate shall, on the said first Wednesday of January, annually, determine who are elected by a majority of votes to be Senators in each district; and in case the full number of Senators to be elected from each district shall not have been so elected, the members of the House of Representatives and such Senators, as shall have been elected, shall, from the highest numbers of the persons voted for, on said lists, equal to twice the number of Senators deficient, in every district, if there be so many voted for, elect by joint ballot the number of Senators required; and in this manner all vacancies in the Senate shall be supplied, as soon as may be, after such vacancies happen.

SEC. 6. The Senators shall be twenty-five years of age at the commencement of the term, for which they are elected, and in all other respects their qualifications shall be the same, as those of the Representatives.

SEC. 7. The Senate shall have the sole power to try all impeachments, and when sitting for that purpose shall be on oath or affirmation, and no person shall be convicted without the concurrence of two thirds of the members present. Their judgment, however, shall not extend farther than to removal from office, and disqualification to hold or enjoy any office of honor, trust or profit under this State. But the party, whether convicted or acquitted, shall nevertheless be liable to indictment, trial, judgment and punishment according to law.

SEC. 8. The Senate shall choose their President, Secretary and other officers.

ARTICLE IV.—PART THIRD. LEGISLATIVE POWER.

SEC. 1. The Legislature shall convene on the first Wednesday of January annually, and shall have full power to make and establish all reasonable laws and regulations for the defence and benefit of the people of this State, not repugnant to this Constitution, nor to that of the United States.

SEC. 2. Every bill or resolution, having the force of law, to which the concurrence of both Houses may be necessary, except on a question of adjournment, which shall have passed both Houses, shall be presented to the Gover-

nor, and if he approve, he shall sign it; if not, he shall return it with his objections to the House, in which it shall have originated, which shall enter the objections at large on its journals, and proceed to reconsider it. If, after such reconsideration, two thirds of that House shall agree to pass it, it shall be sent, together with the objections, to the other House, by which it shall be reconsidered, and, if approved by two thirds of that House, it shall have the same effect, as if it had been signed by the Governor: but in all such cases, the votes of both Houses shall be taken by yeas and nays, and the names of the persons, voting for and against the bill or resolution, shall be entered on the journals of both Houses respectively. If the bill or resolution shall not be returned by the Governor within five days (Sundays excepted) after it shall have been presented to him, it shall have the same force and effect, as if he had signed it, unless the Legislature by their adjournment prevent its return, in which case it shall have such force and effect, unless returned within three days after their next meeting.

SEC. 3. Each House shall be the judge of the elections and qualifications of its own members, and a majority shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each House shall provide.

SEC. 4. Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member, but not a second time for the same cause.

SEC. 5. Each House shall keep a journal, and from time to time publish its proceedings, except such parts as in their judgment may require secrecy; and the yeas and nays of the members of either House on any question, shall, at the desire of one fifth of those present, be entered on the journals.

SEC. 6. Each House, during its session, may punish by imprisonment any person, not a member, for disrespectful or disorderly behaviour in its presence, for obstructing any of its proceedings, threatening, assaulting or abusing any of its members for anything said, done, or doing in either

House: *Provided*, that no imprisonment shall extend beyond the period of the same session.

SEC. 7. The Senators and Representatives shall receive such compensation, as shall be established by law; but no law increasing their compensation shall take effect during the existence of the Legislature, which enacted it. The expenses of the members of the House of Representatives in travelling to the Legislature, and returning therefrom, once in each session and no more, shall be paid by the State out of the public Treasury to every member, who shall seasonably attend, in the judgment of the House, and does not depart therefrom without leave.

SEC. 8. The Senators and Representatives shall, in all cases except treason, felony or breach of the peace, be privileged from arrest during their attendance at, going to, and returning from each session of the Legislature, and no member shall be liable to answer for any thing spoken in debate in either House, in any court or place elsewhere.

SEC. 9. Bills, orders or resolutions, may originate in either House, and may be altered, amended or rejected in the other; but all bills for raising a revenue shall originate in the House of Representatives, but the Senate may propose amendments as in other cases: *Provided*, that they shall not, under color of amendment, introduce any new matter, which does not relate to raising a revenue.

SEC. 10. No Senator or Representative shall, during the term for which he shall have been elected, be appointed to any civil office of profit under this state, which shall have been created, or the emoluments of which increased during such term, except such offices as may be filled by elections by the people: *Provided*, that this prohibition shall not extend to the members of the first Legislature.

SEC. 11. No member of Congress, nor person holding any office under the United States, (post officers excepted) nor office of profit under this state, Justices of the Peace, Notaries Public, Coroners and officers of the militia excepted, shall have a seat in either House during his being such member of Congress, or his continuing in such office.

SEC. 12. Neither House shall during the session, without the consent of the other, adjourn for more than two days, nor to any other place than that in which the Houses shall be sitting.

ARTICLE V.—PART FIRST.
EXECUTIVE POWER.

SEC. 1. The supreme executive power of this State shall be vested in a Governor.

SEC. 2. The Governor shall be elected by the qualified electors, and shall hold his office one year from the first Wednesday of January in each year.

SEC. 3. The meetings for election of Governor shall be notified, held and regulated, and votes shall be received, sorted, counted, declared and recorded, in the same manner as those for Senators and Representatives. They shall be sealed and returned into the Secretary's office in the same manner, and at the same time, as those for Senators. And the Secretary of State for the time being shall, on the first Wednesday of January, then next, lay the lists before the Senate and House of Representatives to be by them examined, and, in case of a choice by a majority of all the votes returned, they shall declare and publish the same. But, if no person shall have a majority of votes, the House of Representatives shall, by ballot, from the persons having the four highest numbers of votes on the lists, if so many there be, elect two persons, and make return of their names to the Senate, of whom the Senate shall, by ballot, elect one, who shall be declared the Governor.

SEC. 4. The Governor shall, at the commencement of his term, be not less than thirty years of age; a natural born citizen of the United States, have been five years, or from the adoption of this Constitution, a resident of the State; and at the time of his election and during the term for which he is elected, be a resident of said State.

SEC. 5. No person holding any office or place under the United States, this State, or any other power, shall exercise the office of Governor.

SEC. 6. The Governor shall, at stated times, receive for his services a compensation, which shall not be increased or diminished during his continuance in office.

SEC. 7. He shall be commander in chief of the army and navy of the State, and of the militia, except when called into the actual service of the United States; but he shall not march nor convey any of the citizens out of the State without their consent, or that of the Legislature, unless it shall become necessary, in order to march or

transport them from one part of the State to another for the defence thereof.

SEC. 8. He shall nominate, and, with the advice and consent of the Council, appoint all judicial officers, the Attorney General, the Sheriffs, Coroners, Registers of Probate, and Notaries Public; and he shall also nominate, and with the advice and consent of the Council, appoint all other civil and military officers, whose appointment is not by this Constitution, or shall not by law be otherwise provided for; and every such nomination shall be made seven days, at least, prior to such appointment.

SEC. 9. He shall from time to time give the Legislature information of the condition of the State, and recommend to their consideration such measures, as he may judge expedient.

SEC. 10. He may require information from any military officer, or any officer in the executive department, upon any subject relating to the duties of their respective offices.

SEC. 11. He shall have power, with the advice and consent of the Council, to remit, after conviction, all forfeitures and penalties, and to grant reprieves and pardons, except in cases of impeachment.

SEC. 12. He shall take care that the laws be faithfully executed.

SEC. 13. He may, on extraordinary occasions, convene the Legislature; and in case of disagreements between the two Houses with respect to the time of adjournment, adjourn them to such time, as he shall think proper, not beyond the day of the next annual meeting; and if, since the last adjournment, the place where the Legislature were next to convene shall have become dangerous from an enemy or contagious sickness, may direct the session to be held at some other convenient place within the State.

SEC. 14. Whenever the office of Governor shall become vacant by death, resignation, removal from office or otherwise, the President of the Senate shall exercise the office of Governor until another Governor shall be duly qualified; and in case of the death, resignation, removal from office or other disqualification of the President of the Senate, so exercising the office of Governor, the Speaker of the House of Representatives shall exercise the office, until a President of the Senate shall have been chosen;

and when the office of Governor, President of the Senate, and Speaker of the House shall become vacant, in the recess of the Senate, the person, acting as Secretary of State for the time being, shall by proclamation convene the Senate, that a President may be chosen to exercise the office of Governor. And whenever either the President of the Senate, or Speaker of the House shall so exercise said office, he shall receive only the compensation of Governor, but his duties as President or Speaker shall be suspended; and the Senate or House, shall fill the vacancy, until his duties as Governor shall cease.

ARTICLE V.—PART SECOND.

COUNCIL.

SEC. 1. There shall be a Council, to consist of seven persons, citizens of the United States, and residents of this State, to advise the Governor in the executive part of government, whom the Governor shall have full power, at his discretion, to assemble; and he, with the Counsellors, or a majority of them, may from time to time, hold and keep a Council, for ordering and directing the affairs of State according to law.

SEC. 2. The Counsellors shall be chosen annually, on the first Wednesday of January, by joint ballot of the Senators and Representatives in Convention; and vacancies, which shall afterwards happen, shall be filled in the same manner; but not more than one Counsellor shall be elected from any district, prescribed for the election of Senators; and they shall be privileged from arrest in the same manner, as Senators and Representatives.

SEC. 3. The resolutions and advice of Council shall be recorded in a register, and signed by the members agreeing thereto, which may be called for by either House of the Legislature; and any Counsellor may enter his dissent to the resolution of the majority.

SEC. 4. No Member of Congress, or of the Legislature of this State, nor any person holding any office under the United States, (post officers excepted) nor any civil officers under this State, (Justices of the Peace and Notaries Public excepted) shall be Counsellors. And no Counsellor shall be appointed to any office during the time, for which he shall have been elected.

ARTICLE V.—PART THIRD.
SECRETARY.

SEC. 1. The Secretary of State shall be chosen annually, at the first session of the Legislature, by joint ballot of the Senators and Representatives in Convention.

SEC. 2. The records of the State shall be kept in the office of the Secretary, who may appoint his deputies, for whose conduct he shall be accountable.

SEC. 3. He shall attend the Governor and Council, Senate and House of Representatives, in person or by his deputies, as they shall respectively require.

SEC. 4. He shall carefully keep and preserve the records of all the official acts and proceedings of the Governor and Council, Senate and House of Representatives, and, when required, lay the same before either branch of the Legislature, and perform such other duties as are enjoined by this Constitution, or shall be required by law.

ARTICLE V.—PART FOURTH.
TREASURER.

SEC. 1. The Treasurer shall be chosen annually, at the first session of the Legislature, by joint ballot of the Senators, and Representatives in Convention, but shall not be eligible more than five years successively.

SEC. 2. The Treasurer shall, before entering on the duties of his office, give bond to the State with sureties, to the satisfaction of the Legislature, for the faithful discharge of his trust.

SEC. 3. The Treasurer shall not, during his continuance in office, engage in any business of trade or commerce, or as a broker, nor as an agent or factor for any merchant or trader.

SEC. 4. No money shall be drawn from the Treasury, but by warrant from the Governor and Council, and in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money, shall be published at the commencement of the annual session of the Legislature.

ARTICLE VI.
JUDICIAL POWER.

SEC. 1. The Judicial power of this state shall be vested in a Supreme Judicial Court, and such other courts as the Legislature shall from time to time establish.

Sec. 2. The Justices of the Supreme Judicial Court shall, at stated times, receive a compensation, which shall not be diminished during their continuance in office, but they shall receive no other fee or reward.

Sec. 3. They shall be obliged to give their opinion upon important questions of law, and upon solemn occasions, when required by the Governor, Council, Senate or House of Representatives.

Sec. 4. All Judicial officers, except Justices of the Peace, shall hold their offices during good behavior, but not beyond the age of seventy years.

Sec. 5. Justices of the Peace and Notaries Public, shall hold their offices during seven years, if they so long behave themselves well, at the expiration of which term, they may be reappointed or others appointed, as the public interest may require.

Sec. 6. The Justices of the Supreme Judicial Court shall hold no office under the United States, nor any state, nor any other office under this state, except that of Justice of the Peace.

ARTICLE VII. MILITARY.

Sec. 1. The captains and subalterns of the militia shall be elected by the written votes of the members of their respective companies. The field officers of regiments by the written votes of the captains and subalterns of their respective regiments. The Brigadier Generals in like manner, by the field officers of their respective brigades.

Sec. 2. The Legislature shall, by law, direct the manner of notifying the electors, conducting the elections, and making the returns to the Governor of the officers elected; and, if the electors shall neglect or refuse to make such elections, after being duly notified according to law, the Governor shall appoint suitable persons to fill such offices.

Sec. 3. The Major Generals shall be elected by the Senate and House of Representatives, each having a negative on the other. The Adjutant General and Quarter-master General shall be appointed by the Governor and Council; but the Adjutant General shall perform the duties of Quarter-master General, until otherwise directed by law. The Major Generals and Brigadier Generals, and the commanding officers of regiments and battalions shall appoint

their respective staff officers ; and all military officers shall be commissioned by the Governor.

SEC. 4. The militia, as divided into divisions, brigades, regiments, battalions and companies, pursuant to the laws now in force, shall remain so organized, until the same shall be altered by the Legislature.

SEC. 5. Persons of the denominations of Quakers and Shakers, Justices of the Supreme Judicial Court and Ministers of the Gospel may be exempted from military duty, but no other person of the age of eighteen and under the age of forty-five years, excepting officers of the militia, who have been honorably discharged, shall be so exempted, unless he shall pay an equivalent to be fixed by law.

ARTICLE VIII. LITERATURE.

A general diffusion of the advantages of education being essential to the preservation of the rights and liberties of the people ; to promote this important object, the Legislature are authorised, and it shall be their duty to require, the several towns to make suitable provision, at their own expense, for the support and maintenance of public schools ; and it shall further be their duty to encourage and suitably endow, from time to time, as the circumstances of the people may authorise, all academies, colleges and seminaries of learning within the State : *Provided*, That no donation, grant or endowment shall at any time be made by the Legislature, to any Literary Institution now established, or which may hereafter be established, unless, at the time of making such endowment, the Legislature of the State shall have the right to grant any further powers to, alter, limit or restrain any of the powers vested in, any such literary institution, as shall be judged necessary to promote the best interests thereof.

ARTICLE IX. GENERAL PROVISIONS.

SEC. 1. Every person elected or appointed to either of the places or offices provided in this Constitution, and every person elected, appointed, or commissioned to any Judicial, Executive, Military, or other office under this State, shall, before he enter on the discharge of the duties of his place or office, take and subscribe the following oath or affirmation: " I, do swear, that I

will support the Constitution of the United States and of this State, so long as I shall continue a citizen thereof. So help me God."

"I do swear, that I will faithfully discharge, to the best of my abilities, the duties incumbent on me as according to the Constitution and the laws of the State.—So help me God :"
Provided, That an affirmation in the above forms may be substituted, when the person shall be conscientiously scrupulous of taking and subscribing an oath.

The oaths or affirmations shall be taken and subscribed by the Governor and Counsellors before the presiding officer of the Senate, in the presence of both Houses of the Legislature, and by the Senators and Representatives before the Governor and Council, and by the residue of said officers before such persons as shall be prescribed by the Legislature; and whenever the Governor or any Counsellor shall not be able to attend during the session of the Legislature to take and subscribe said oaths or affirmations, such oaths or affirmations may be taken and subscribed in the recess of the Legislature before any Justice of the Supreme Judicial Court: *Provided*, that the Senators and Representatives, first elected under this Constitution, shall take and subscribe such oaths or affirmations before the President of the Convention.

SEC. 2. No person holding the office of Justice of the Supreme Judicial Court, or of any inferior Court, Attorney General, County Attorney, Treasurer of the State, Adjutant General, Judge of Probate, Register of Probate, Register of Deeds, Sheriffs or their deputies, Clerks of the Judicial Courts, shall be a member of the Legislature; and any person holding either of the foregoing offices, elected to, and accepting a seat in the Congress of the United States, shall thereby vacate said office; and no person shall be capable of holding or exercising, at the same time, within this State more than one of the offices before mentioned.

SEC. 3. All Commissions shall be in the name of the State, signed by the Governor, attested by the Secretary or his deputy, and have the seal of the State thereto affixed.

SEC. 4. And in case the elections, required by this Constitution on the first Wednesday of January annually, by the two Houses of the Legislature, shall not be completed

on that day, the same may be adjourned from day to day, until completed, in the following order : the vacancies in the Senate shall first be filled ; the Governor shall then be elected, if there be no choice by the people ; and afterwards the two Houses shall elect the Council.

SEC. 5. Every person holding any civil office under this State, may be removed by impeachment, for misdemeanor in office ; and every person holding any office, may be removed by the Governor with the advice of the Council, on the address of both branches of the Legislature. But before such address shall pass either House, the causes of removal shall be stated and entered on the journal of the House in which it originated, and a copy thereof served on the person in office, that he may be admitted to a hearing in his defence.

SEC. 6. The tenure of all offices, which are not or shall not be otherwise provided for, shall be during the pleasure of the Governor and Council.

SEC. 7. While the public expenses shall be assessed on polls and estates, a general valuation shall be taken at least once in ten years.

SEC. 8. All taxes upon real estate, assessed by authority of this State, shall be apportioned and assessed equally, according to the just value thereof.

ARTICLE X. SCHEDULE.

SEC. 1. The first Legislature shall meet on the last Wednesday in May next. The elections on the second Monday in September annually shall not commence until the year one thousand eight hundred and twenty one, and in the mean time the election for Governor, Senators and Representatives shall be on the first Monday in April, in the year of our Lord one thousand eight hundred and twenty, and at this election, the same proceedings shall be had as are required at the elections, provided for in this Constitution on the second Monday in September annually, and the lists of the votes for the Governor and Senators shall be transmitted, by the town and plantation clerks respectively, to the Secretary of State *pro tempore*, seventeen days at least before the last Wednesday in May next, and the President of the Convention shall, in presence of the Secretary of State *pro tempore*, open and examine the attested

copies of said lists so returned for Senators, and shall have all the powers, and be subject to all the duties, in ascertaining, notifying, and summoning the Senators, who appear to be elected, as the Governor and Council have, and are subject to, by this Constitution : *Provided*, he shall notify said Senators fourteen days at least before the last Wednesday in May, and vacancies shall be ascertained and filled in the manner herein provided ; and the Senators to be elected on the said first Monday of April, shall be apportioned as follows :

The County of York shall elect three.

The County of Cumberland shall elect three.

The County of Lincoln shall elect three.

The County of Hancock shall elect two.

The County of Washington shall elect one.

The County of Kennebec shall elect three.

The County of Oxford shall elect two.

The County of Somerset shall elect two.

The County of Penobscot shall elect one.

And the members of the House of Representatives shall be elected, ascertained, and returned in the same manner as herein provided at elections on the second Monday of September, and the first House of Representatives shall consist of the following number, to be elected as follows :

COUNTY OF YORK.—The towns of York and Wells may *each* elect two representatives ; and each of the remaining towns may elect one.

COUNTY OF CUMBERLAND.—The town of Portland may elect three representatives ; North-Yarmouth two ; Brunswick two ; Gorham, two ; Freeport and Pownal, two ; Raymond and Otisfield, one ; Bridgton, Baldwin and Harrison, one ; Poland and Danville, one ; and each remaining town one.

COUNTY OF LINCOLN.—The towns of Georgetown and Phippsburg, may elect one representative ; Lewiston and Wales, one ; St. George, Cushing and Friendship, one ; Hope and Appleton Ridge, one ; Jefferson, Putnam and Patricktown plantation, one ; Alna and Whitefield, one ; Montville, Palermo, and Montville plantation, one ; Woolwich and Dresden, one ; and each remaining town one.

COUNTY OF HANCOCK.—The town of Bucksport

may elect one representative; Deer Island one; Castine and Brooksville, one; Orland and Penobscot, one; Mount Desert and Eden, one; Vinalhaven and Isleborough, one; Sedgwick and Bluehill one; Gouldsborough, Sullivan and plantations No. 8 and 9 north of Sullivan, one; Surry, Ellsworth, Trenton and plantation of Mariaville, one; Lincolnville, Searsmont and Belmont, one; Belfast and Northport, one; Prospect and Swanville, one; Frankfort and Monroe, one; Knox, Brooks, Jackson and Thorndike, one.

COUNTY OF WASHINGTON.—The towns of Steuben, Cherryfield and Harrington, may elect one representative; Addison, Columbia and Jonesborough, one; Machias one; Lubec, Dennysville, plantations No. 9, No. 10, No. 11, No. 12, one; Eastport one; Perry, Robinson, Calais, plantations No. 3, No. 6, No. 7, No. 15, and No. 16, one.

COUNTY OF KENNEBEC.—The towns of Belgrade and Dearborn may elect one representative; Cherterville, Vienna and Rome, one; Wayne and Fayette, one; Temple and Wilton, one; Winslow and China, one; Fairfax and Freedom, one; Unity, Joy and 25 mile pond plantation, one; Harlem and Malta, one; and each remaining town one.

COUNTY OF OXFORD.—The towns of Dixfield, Mexico, Weld and plantations Nos. 1 and 4, may elect one representative; Jay and Hartford, one; Livermore one; Rumford, East Andover and plantations Nos. 7 and 8, one; Turner one; Woodstock, Paris and Greenwood, one; Hebron and Norway, one; Gilead, Bethel, Newry, Albany and Howard's gore, one; Porter, Hiram and Brownfield, one; Waterford, Sweden and Lovell, one; Denmark, Fryeburg and Fryeburg addition, one; Buckfield and Sumner, one.

COUNTY OF SOMERSET.—The town of Fairfield may elect one representative; Norridgwock and Bloomfield, one; Starks and Mercer, one; Industry, Strong and New-Vineyard, one; Avon, Phillips, Freeman and Kingfield, one; Anson, New-Portland, Enbden, and plantation No. 1, one; Canaan, Warsaw, Palmyra, St. Albans and Corinna, one; Madison, Solon, Bingham, Moscow and Northhill, one; Cornville, Athens, Harmony, Ripley and Warrenstown, one.

COUNTY OF PENOBSCOT.—The towns of Hamp-

den and Newburg may elect one representative; Orrington, Brewer, and Eddington and plantations adjacent on the east side of Penobscot river, one; Bangor, Orono and Sunkhaze plantation, one; Dixmont, Newport, Carmel, Hermon, Stetson, and plantation No. 4 in the 6th range, one; Levant, Corinth, Exeter, New-Charlestown, Blakesburgh, plantation No. 1 in 3d range, and plantation No. 1 in 4th range, one; Dexter, Garland, Guilford, Sangerville, and plantation No. 3 in 6th range, one; Atkinson, Sebec, Foxcroft, Brownville, Williamsburgh, plantation No. 1 in 7th range, and plantation No. 3 in 7th range, one.

And the Secretary of State *pro tempore* shall have the same powers, and be subject to the same duties, in relation to the votes for Governor, as the Secretary of State has, and is subject to, by this Constitution: and the election of Governor shall, on the said last Wednesday in May, be determined and declared, in the same manner, as other elections of Governor are by this Constitution; and in case of vacancy in said office, the President of the Senate, and Speaker of the House of Representatives, shall exercise the office as herein otherwise provided, and the Counsellors, Secretary and Treasurer, shall also be elected on said day, and have the same powers, and be subject to the same duties, as is provided in this Constitution; and in case of the death or other disqualification of the President of this Convention, or of the Secretary of State *pro tempore*, before the election and qualification of the Governor or Secretary of State under this Constitution, the persons to be designated by this Convention at their session in January next, shall have all the powers and perform all the duties, which the President of this Convention, or the Secretary *pro tempore*, to be by them appointed, shall have and perform.

SEC. 2. The period for which the Governor, Senators and Representatives, Counsellors, Secretary and Treasurer, first elected or appointed, are to serve in their respective offices and places, shall commence on the last Wednesday in May, in the year of our Lord one thousand eight hundred and twenty, and continue until the first Wednesday of January, in the year of our Lord one thousand eight hundred and twenty two.

SEC. 3. All laws now in force in this state, and not re-

pugnant to this Constitution, shall remain, and be in force, until altered or repealed by the Legislature, or shall expire by their own limitation.

SEC. 4. The Legislature, whenever two thirds of both houses shall deem it necessary, may propose amendments to this Constitution; and when any amendment shall be so agreed upon, a resolution shall be passed and sent to the selectmen of the several towns, and the assessors of the several plantations, empowering and directing them to notify the inhabitants of their respective towns and plantations, in the manner prescribed by law, at their next annual meetings in the month of September, to give in their votes on the question, whether such amendment shall be made; and if it shall appear that a majority of the inhabitants voting on the question are in favor of such amendment, it shall become a part of this Constitution.

SEC. 5. All officers provided for in the sixth section of an act of the Commonwealth of Massachusetts, passed on the nineteenth day of June, in the year of our Lord one thousand eight hundred and nineteen, entitled "An act relating to the Separation of the District of Maine from Massachusetts Proper, and forming the same into a separate and Independent State," shall continue in office as therein provided; and the following provisions of said act shall be a part of this Constitution, subject however to be modified or annulled as therein is prescribed, and not otherwise, to wit:

SEC. 1. Whereas it has been represented to this Legislature, that a majority of the people of the District of Maine are desirous of establishing a separate and Independent Government within said District: Therefore,

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, That the consent of this Commonwealth be, and the same is hereby given, that the District of Maine may be formed and erected into a separate and Independent State, if the people of the said District shall in the manner, and by the majority hereinafter mentioned, express their consent and agreement thereto, upon the following terms and conditions: And, provided the Congress of the United States shall give its consent thereto, before the fourth day of March next: which terms and conditions are as follows, viz.

First. All the lands and buildings belonging to the Commonwealth, within Massachusetts Proper, shall continue to belong to said Commonwealth, and all the lands belonging to the Commonwealth, within the District of Maine, shall belong, the one half thereof to the said Commonwealth, and the other half thereof, to the State,

to be formed within the said District, to be divided as is hereinafter mentioned; and the lands within the said District, which shall belong to the said Commonwealth, shall be free from taxation, while the title to the said lands remains in the Commonwealth; and the rights of the Commonwealth to their lands, within said District, and the remedies for the recovery thereof, shall continue the same, within the proposed State, and in the Courts thereof, as they now are within the said Commonwealth, and in the Courts thereof; for which purposes, and for the maintenance of its rights, and recovery of its lands, the said Commonwealth shall be entitled to all other proper and legal remedies, and may appear in the Courts of the proposed State and in the Courts of the United States, holden therein; and all rights of action for, or entry into lands, and of actions upon bonds, for the breach of the performance of the condition of settling duties, so called, which have accrued, or may accrue, shall remain in this Commonwealth, to be enforced, committed, released, or otherwise disposed of, in such manner as this Commonwealth may hereafter determine: *Provided however*, That whatever this Commonwealth may hereafter receive or obtain on account thereof, if any thing, shall, after deducting all reasonable charges relating thereto, be divided, one third part thereof to the new State, and two third parts thereof to this Commonwealth.

Second. All the arms which have been received by this Commonwealth from the United States, under the law of Congress, entitled, "An act making provision for arming and equipping the whole body of militia of the United States, passed April the twenty third, one thousand eight hundred and eight, shall, as soon as the said District shall become a separate State, be divided between the two States, in proportion to the returns of the militia, according to which, the said arms have been received from the United States, as aforesaid.

Third. All money, stock, or other proceeds, hereafter derived from the United States, on account of the claim of this Commonwealth, for disbursements made, and expenses incurred, for the defence of the State, during the late war with Great Britain, shall be received by this Commonwealth, and when received, shall be divided between the two States, in the proportion of two thirds to this Commonwealth, and one third to the new State.

Fourth. All other property, of every description, belonging to the Commonwealth shall be holden and receivable by the same, as a fund and security, for all debts, annuities, and Indian subsidies, or claims due by said Commonwealth; and within two years after the said District shall have become a separate State, the Commissioners to be appointed, as hereinafter provided, if the said States cannot otherwise agree, shall assign a just portion of the productive property, so held by said Commonwealth, as an equivalent and indemnification to said Commonwealth for all such debts, annuities, or Indian subsidies or claims, which may then remain due, or unsatisfied: and all the surplus of the said property, so holden, as aforesaid, shall be divided between the said Commonwealth and the said District of Maine, in the proportion of two thirds to the said Commonwealth, and one third

to the said District—and if, in the judgment of the said Commissioners, the whole of said property, so held, as a fund and security, shall not be sufficient indemnification for the purpose, the said District shall be liable for and shall pay to said Commonwealth, one third of the deficiency.

Fifth. The new State shall, as soon as the necessary arrangements can be made for that purpose, assume and perform all the duties and obligations of this Commonwealth, towards the Indians within said District of Maine, whether the same arise from treaties, or otherwise; and for this purpose shall obtain the assent of said Indians, and their release to this Commonwealth of claims and stipulations arising under the treaty at present existing between the said Commonwealth and said Indians; and as an indemnification to such new State, therefor, this Commonwealth, when such arrangements shall be completed, and the said duties and obligations assumed, shall pay to said new State, the value of thirty thousand dollars, in manner following, viz: The said Commissioners shall set off by metes and bounds, so much of any part of the land, within the said District, falling to this Commonwealth, in the division of the public lands, hereinafter provided for, as in their estimation shall be of the value of thirty thousand dollars; and this Commonwealth shall, thereupon, assign the same to the said new State, or in lieu thereof, may pay the sum of thirty thousand dollars at its election; which election of the said Commonwealth, shall be made within one year from the time that notice of the doings of the Commissioners, on this subject, shall be made known to the Governor and Council; and if not made within that time, the election shall be with the new State.

Sixth. Commissioners, with the powers and for the purposes mentioned in this act, shall be appointed in manner following: The Executive authority of each State shall appoint two; and the four so appointed, or the major part of them, shall appoint two more; but if they cannot agree in the appointment, the Executive of each State shall appoint one in addition; not however, in that case, to be a citizen of its own State. And any vacancy happening with respect to the Commissioners, shall be supplied in the manner provided for their original appointment; and, in addition to the powers herein before given to said Commissioners, they shall have full power and authority to divide all the public lands within the District, between the respective States, in equal shares, or moieties, in severalty, having regard to quantity, situation and quality; they shall determine what lands shall be surveyed and divided, from time to time, the expense of which surveys, and of the Commissioners, shall be borne equally by the two States. They shall keep fair records of their doings, and of the surveys made by their direction, copies of which records, authenticated by them, shall be deposited from time to time, in the archives of the respective States; transcripts of which, properly certified, may be admitted in evidence, in all questions touching the subject to which they relate. The Executive authority of each State may revoke the power of either or both

its Commissioners; having, however, first appointed a substitute, or substitutes, and may fill any vacancy happening with respect to its own Commissioners; four of said Commissioners shall constitute a quorum, for the transaction of business; their decision shall be final, upon all subjects within their cognizance. In case said commission shall expire, the same not having been completed, and either State shall request the renewal or filling up of the same, it shall be renewed or filled up in the same manner, as is herein provided for filling the same, in the first instance, and with the like powers; and if either State shall, after six months' notice, neglect or refuse to appoint its Commissioners, the other may fill up the whole commission.

Seventh. All grants of lands, franchises, immunities, corporate or other rights, and all contracts for, or grants of land not yet located, which have been or may be made by the said Commonwealth, before the separation of said District shall take place, and having or to have effect within the said District, shall continue in full force, after the said District shall become a separate State. But the grant which has been made to the President and Trustees of Bowdoin College, out of the tax laid upon the Banks, within this Commonwealth, shall be charged upon the tax upon the Banks within the said District of Maine, and paid according to the terms of said grant; and the President and Trustees, and the Overseers of said College, shall have, hold and enjoy their powers and privileges in all respects; so that the same shall not be subject to be altered, limited, annulled or restrained, except by judicial process, according to the principles of law; and in all grants hereafter to be made, by either State, of unlocated land within the said District, the same reservations shall be made for the benefit of Schools, and of the Ministry, as have heretofore been usual, in grants made by this Commonwealth. And all funds heretofore granted by this Commonwealth, to any religious, literary, or eleemosynary corporation, or society, shall be free from taxation, while the same continues to be owned by such corporation, or society.

Eighth. No laws shall be passed in the proposed State, with regard to taxes, actions, or remedies at law, or bars, or limitations thereof, or otherwise making any distinction between the lands and rights of property of proprietors, not resident in, or not citizens of said proposed State, and the lands and rights of property of the citizens of the proposed State, resident therein; and the rights and liabilities of all persons, shall, after the said separation, continue the same as if the said District was still a part of this Commonwealth, in all suits pending, or judgments remaining unsatisfied on the fifteenth day of March next, where the suits have been commenced in Massachusetts Proper, and process has been served within the District of Maine; or commenced in the District of Maine, and process has been served in Massachusetts Proper, either by taking bail, making attachments, arresting and detaining persons, or otherwise, where execution remains to be done; and in such suits, the Courts within Massachusetts Proper, and within the proposed State, shall continue to have the same jurisdiction as if the said District had still remained a part of the Com-

monwealth. And this Commonwealth shall have the same remedies within the proposed State, as it now has, for the collection of all taxes, bonds, or debts, which may be assessed, due, made or contracted, by, to, or with the Commonwealth, on or before the said fifteenth day of March, within the said District of Maine; and all officers within Massachusetts Proper and the District of Maine, shall conduct themselves accordingly.

Ninth These terms and conditions, as here set forth, when the said District shall become a separate and Independent State, shall, *ipso facto*, be incorporated into, and become and be a part of any Constitution, provisional or other, under which the Government of the said proposed State, shall, at any time hereafter, be administered; subject, however, to be modified, or annulled by the agreement of the Legislature of both the said States; but by no other power or body whatsoever.

SEC. 6. This Constitution shall be enrolled on parchment, deposited in the Secretary's office, and be the supreme law of the state, and printed copies thereof shall be prefixed to the books containing the laws of this state.

Done in Convention, October 29, 1819.

WILLIAM KING, President

of the Convention and member from Bath.

*List of Delegates returned to the Convention.**

COUNTY OF YORK.

York, Elihu Bragdon, David Wilcox—*Kittery*, Alexander Rice—*Wells*, Joseph Thomas—*Berwick*, William Hobbs, Nathaniel Hobbs, Richard F. Cutts—*Biddeford*, George Thacher, Seth Spring—*Arundel*, Simon Nowell—*Saco*, William Moody, Ether Shepley, George Thacher, junior—*Lebanon*, David Legrow—*Buxton*, Gideon Elden, Josiah Paine, Edmund Woodman—*Lyman*, John Low, John Burbank—*Shapleigh*, John Leighton—*Parsonsfield*, David Marston, Abner Hazen—*Waterborough*, Samuel Bradeen, Henry Hobbs—*Limington*, David Boyd—*Cornish*, Thomas A. Johnson—*Alfred*, John Holmes—*Hollis*, Ellis B. Usher, Timothy Hodsdon—*South Berwick*, Benjamin Green—*Limerick*, John Burnham. York, Jeremiah Bradbury.* *Kittery*, Joshua T. Chase.* *Wells*, George W. Wallingford,* Joseph Dane,* Nahum Morrell,* Samuel Curtis, junior.* *Lebanon*, Daniel Wood.* *Sanford*, Elisha Allen,* Timothy Shaw.* *Shapleigh*, John Bodwell,* Samuel Heard.*

* Those with this mark (*) did not sign the Constitution.

Limington, Nathaniel Clark.* *Elliot*, Stephen Neal,* *Elisha Shapleigh*.*
CUMBERLAND.

Scarborough, Benjamin Larrabee, junior, Joseph Fogg—*North Yarmouth*, William Buxton, Ephraim Sturdivant, Jeremiah Buxton—*Falmouth*, Peter M. Knight, Nathan Bucknam—*Brunswick*, Robert D. Dunning, Jonathan Page, Benjamin Titcomb—*Harpswell*, Stephen Purrington—*Gorham*, Lathrop Lewis, Joseph Adams, James Irish—*Cape Elizabeth*, Ebenezer Thrasher—*New-Gloucester*, Joseph E. Foxcroft, Isaac Gros—*Gray*, Joseph McLellan—*Standish*, Theodore Massey—*Portland*, Albion K. Parris, William P. Preble—*Freeport*, Solomon Dennison—*Durham*, Secomb Jordan, Allen H. Cobb—*Bridgton*, Phineas Ingals—*Poland*, Josiah Dunn, junior—*Minot*, Asaph Howard, Chandler Freeman—*Danville*, Joseph Roberts—*Baldwin*, Lot Davis—*Raymond*, Zachariah Leach—*Pownal*, Isaac Cushman—*Westbrook*, Silas Estes, Thomas Slemons, John Jones—*Harrison*, Amos Thomes. *North Yarmouth*, Calvin Stockbridge.* *Windham*, Noah Reed,* Josiah Chute.* *Standish*, James D. Tucker.* *Portland*, Ezekiel Whitman,* Henry Smith,* Nicholas Emery,* Asa Clap,* Isaac Ilsey.*

LINCOLN.

Georgetown, Benjamin Riggs—*New-Castle*, Ebenezer Farley—*Woolwich*, Ebenezer Delano—*Wiscasset*, Abiel Wood, Warren Rice—*Bowdoinham*, Ebenezer Herrick, Elihu Hatch—*Topsfield*, Nathaniel Green—*Boothbay*, Daniel Rose, John McKown—*Bristol*, Samuel Tucker, William M'Clintock, John Fosset—*Waldoborough*, Joshua Head, Isaac G. Reed, Jacob D. Ludwig, junior—*Edgcomb*, Stephen Parsons—*Warren*, John Miller, Cyrus Eaton—*Thomaston*, Isaac Barnard, John Spear—*Bath*, Joshua Wingate, junior, Benjamin Ames—*Union*, Robert Foster—*Bowdoin*, Joseph Carr—*Nobleborough*, Ephraim Rollins—*Cushing*, Edward Killoran—*Camden*, Nathaniel Martin—*Dresden*, Isaac Lillie—*Lewiston*, John Herrick—*Litchfield*, John Neal, David C. Burr—*Lisbon*, Nathaniel Eames, James Small—*St. George*, Joel Miller—*Hope*, Fergus M'Claine—*Palermo*, Thomas Eastman—*Montville*, Cyrus Davis—*Jefferson*, Jesse Rowell—*Friendship*, Melzer Thomas—*Whitefield*, Joseph Bailey—*Putnam*, Mark Hatch—*Alna*, John Dole—*Wales*, Joseph Small. *Phippsburg*, Parker McCobb.*

KENNEBECK.

Hallowell, Samuel Moody, William H. Page, Benjamin Dearborn—*Winthrop*, Alexander Belcher, Daniel Campbell—*Fassalborough*, Samuel Redington, Abiel Getshell—*Winslow*,

William Swan—*Pittston*, Eli Young—*Green*, Luther Robbins—*Readfield*, John Hubbard, Samuel Currier—*Monmouth*, John Chandler, Simon Dearborn junior.—*Mount-Vernon*, David McGaffey—*Sidney*, Ambrose Howard, Reuel Howard—*Farmington*, Nathan Cutler, Jabez Gay—*New Sharon*, Christopher Dyer—*Clinton*, Herbert Moore—*Fayette*, Charles Smith—*Belgrade*, Elias Taylor—*Harlem*, William Pullen—*Augusta*, Daniel Cony, Joshua Gage, James Bridge—*Wayne*, Joseph Lamson—*Leeds*, Thomas Francis—*Chesterville*, Ward Locke—*Vienna*, Nathaniel Whittier—*Waterville*, Abijah Smith, Ebenezer Bacon—*Gardiner*, Jacob Davis, Sanford Kingsbery—*Temple*, Benjamin Abbot—*Wilton*, Ebenezer Eaton—*Rome*, John S. Colboth—*Fairfax*, Joel Wellington—*Unity*, Rufus Burnham—*Malta*, William Hilton—*Freedom*, Matthew Randall—*Joy*, James Parker—*China*, Daniel Stevens. *Vassalborough*, Moses Sleeper.* *Dearborn*, Peasly Morrell, junior.*

HANCOCK.

Belfast, Alfred Johnson, junior—*Islesborough*, Josiah Farrow—*Deer-Isle*, Ignatius Haskell, Asa Green—*Bluchill*, Andrew Witham—*Trenton*, Peter Haynes—*Sullivan*, George Henman—*Gouldsborough*, Samuel Davis—*Vinalhaven*, Benjamin Beverage—*Frankfort*, Alexander Milliken, Joshua Hall—*Bucksport*, Samuel Little—*Prospect*, Abel W. Atherton—*Castine*, William Abbot—*Northport*, David Alden—*Eden*, Nicholas Thomas, junior—*Orland*, Horatio Mason—*Ellsworth*, Mark Shepard—*Lincolnville*, Samuel A. Whitney—*Belmont*, James Weymouth—*Brooks*, Samuel Whitney—*Jackson*, Bordman Johnson—*Searsmont*, Ansel Lathrop—*Swanville*, Eleazar Nickerson—*Thorndike*, Joseph Blethen—*Monroe*, Joseph Neally—*Knox*, James Weed. *Bucksport*, Samuel M Pond.* *Surry*, Leonard Jarvis.*

WASHINGTON.

Machias, John Dickinson—*Steuben*, Alexander Nichols—*Harrington*, James Campbell—*Eastport*, John Burgin—*Jonesborough*, Ephraim Whitney—*Calais*, William Vance—*Lubec*, Lemuel Prescott—*Robbinston*, Thomas Vose—*Cherryfield*, Joseph Adams—*Perry*, Peter Golding. *Eastport*, Jonathan Bartlet.*

OXFORD.

Fryeburg, Judah Dana—*Turner*, John Turner, Philip Bradford—*Hebron*, Alexander Greenwood—*Buckfield*, Enoch Hall—*Paris*, James Hooper, Benjamin Chandler—*Jay*, Cornelius Holland—*Livermore*, Benjamin Bradford, Thomas Chase.

junior—*Bethel*, John Grover—*Waterford*, Josiah Shaw—*Norway*, Aaron Wilkins—*Hartford*, Joseph Tobin—*Sumner*, Calvin Bisbee—*Rumford*, Peter C. Virgin—*Lovell*, Josiah Heald, 2d—*Brownfield*, James Steele—*Albany*, Asa Cummings—*Dixfield*, Solomon Leland—*East Andover*, Sylvanus Poor—*Gilead*, Eliphaz Chapman—*Newry*, Luke Reily—*Denmark*, Cyrus Ingalls—*Porter*, William Towle—*Hiram*, Marshal Spring—*Woodstock*, Cornelius Perkins—*Greenwood*, Isaac Flint—*Sweden*, Samuel Nevers—*Weld*, La Fayette Perkins—*Mexico*, Walter P. Carpenter.

SOMERSET.

Canaan, Wentworth Tuttle. *Fairfield*, William Kendall. *Norridgewock*, William Allen, junior. *Starks*, James Waugh. *Cornville*, George Bixby. *Anson*, James Collins. *Strong*, James Mayhew. *Avon*, Samuel Sprague. *New Vineyard*, William Talcott. *Harmony*, Robert Evans. *Industry*, Ezekiel Hinkley. *Athens*, Isaiah Dore. *Madison*, John Neal. *Emden*, Andrew McFadden. *Palmyra*, Samuel Lancey. *Freeman*, Jonathan Brown. *New-Portland*, Henry Norton. *Solon*, Elisha Coolidge. *Bingham*, Obed Wilson. *Phillips*, Joseph Dyer. *St. Albans*, Benjamin French. *Kingfield*, Joseph Knapp. *Corinna*, William Elder. *Ripley*, Jacob Hale. *Bloomfield*, Eleazar Coburn. *Warsaw*, Stevens Kendall. *Fairfield*, Stephen Thayer.* *Mercer*, Nahum Baldwin.* *Northhill*, William Butterfield.*

PENOBSCOT.

Hampden, Simeon Stetson. *Orrington*, John Wilkins. *Bangor*, Joseph Treat. *Orono*, Jackson Davis. *Dixmont*, Samuel Butman. *Brewer*, George Leonard. *Eddington*, Luther Eaton. *Carmel*, Abel Ruggles. *Corinth*, Andrew Strong. *Exeter*, Nathaniel Atkins. *Garland*, Amos Gordon. *New-Charleston*, Daniel Wilkins. *Foxcroft*, Samuel Chamberlain. *Sebec*, William R. Lowney. *Hermon*, William Patten. *Levant*, Moses Hodsdon. *Newport*, Benjamin Shaw. *Sangerville*, Benjamin C. Goss. *Dexter*, Isaac Farrar. *Guilford*, Joseph Kelsey. *Atkinson*, Eleazar W. Snow. *Newburgh*, John Whitney.

Attest, ROBERT C. VOSE, Secretary,

DEBATES,
RESOLUTIONS, AND OTHER PROCEEDINGS,
OF
THE CONVENTION,
FOR FORMING A
CONSTITUTION FOR THE STATE OF MAINE.

IN CONVENTION,

Monday, October 11, 1819.

AGREEABLY to the provisions of the Act of the Commonwealth of Massachusetts, passed June 19, 1811, entitled "An Act relating to the Separation of the District of Maine from Massachusetts Proper, and forming the same into a Separate and Independent State," the Delegates therein mentioned, assembled at the Court House in Portland; when the Hon. DANIEL CONY was by vote, unanimously requested to take the chair, and he thereupon made the following address:—

GENTLEMEN :

With this day, commences a new era in the history of Maine: a new State has arisen into existence, under circumstances that will enable it to take an honorable rank with the older States of the Union. The Convention here convened in this Hall, consecrated to Justice, and assigned by the Legislature, as the place for their meeting, have a high and responsible trust in charge. Let us endeavor not to disappoint the reasonable expectations of our constituents. The first business will be, to examine the returns of the members, and that before we proceed to organize the convention.

On motion, it was then *Voted*, that the Hon. John Holmes, Hon. Albion K. Parris, Hon. Joshua Gage, Hon. Judah Dana, and William Abbot, Esq. be a committee to examine the credentials of the members.

The committee reported, that on examination it appeared there were two hundred and seventy four members present, legally returned; which report, with the names of the members being read, was accepted.

On the invitation of the Hon. Chairman, the Rev. Mr. Titcomb, of Brunswick, then addressed the throne of Grace, for

such as should be chosen by ballot, unless the Convention shall otherwise determine.

The report, as amended, was then accepted, and ordered to be printed, with a list of the members, and the several committees which have been appointed.

Judge Parris called up the third resolution proposed by him yesterday.

Hon. Mr. Holmes, of Alfred. *Mr. President*, there is considerable solicitude existing on this subject, and well there may be. The people look with anxiety to the committee who are to report a constitution, and will not be satisfied, unless the feelings and interests, not only of every part of the District, but of every class of society, are represented in the committee. I do not complain of this solicitude; it is natural and laudable, and I feel fully disposed to gratify the general wish. But in order to this, the committee must of necessity be large; at the same time it is desirable, for the purpose of despatch, that it should not be so large as to be unwieldy. I would suggest to the large counties a liberal course in the appointment, and that the small counties should have more than an equal proportion. I would therefore move, that twenty two members be selected for this committee, and that three be taken from each of the large counties, and two from each of the smaller ones.

Mr. Wood, of Lebanon, objected to the number, as too small, and proposed to fill the blank with the number 49—and give seven to each of the four large counties, and four to each of the other counties, except Somerset, which should have five.

At the suggestion of the Hon. Judge Dana, of Fryeburg, that Oxford at the last census, contained about one third more inhabitants than Somerset, he consented so to modify his motion, as to give Oxford five and Somerset four.

Hon. Mr. Moody, of Saco, said he was not prepared for the apportionment among the counties. He wished the number of the committee to be first fixed, and afterwards apportioned among the several counties, according to their population. He observed, the proposed number was too large for the despatch of business. A small committee, said he, will much sooner present the Convention with the skeleton of a constitution, than a large one; and this it is desirable to obtain as soon as possible. For, however large the committee may be, or however complete their report, the principles must be debated and settled in the Convention.

Hon. Mr. Whitman, of Portland, was opposed to so large a number for the committee. Several inconveniences he thought would result from appointing one so numerous. We want, said he, only a sketch of a constitution in the first place, which the whole convention will fill up, and to which they will give form and proportion. But if the committee were so large, there would be as many different opinions among them, as there are in the convention. Much time, therefore, would necessarily be consumed in debating among themselves, upon the several articles of the constitution. They would go largely into debate in the detail, and when they came into the convention, would come confirmed in the opinions which they had advocated in the committee. If so large a number as 49 were taken, the constitution would be settled in committee, and it might be difficult, if so large a body were to combine to support the report, to obtain amendments. But should a smaller number be selected, it would be less difficult to obtain amendments, and the constitution that might be ultimately agreed upon, would more fairly express the sense of the convention; and therefore, in all probability correspond more nearly with the expectations of the people. A small committee to draw up a constitution, would be the most likely to hasten the progress of the proceedings, as the convention may the sooner have an opportunity to consider the different provisions, to discuss them and come to some final agreement. He therefore thought, thirteen would be a sufficient number to answer every object the members desired of the committee; and proposed that one should be taken from each County, and the remainder at large.

Hon. Judge Green, of South-Berwick, observed, there is one simple question before the Convention, that is, the number of which the Committee shall consist. I consider, said he, with other gentlemen, that the feelings, views, and interests of all classes of the citizens, in every section of the District, should be consulted in the selection. But I think a smaller number than that proposed by the motion under consideration, would answer this purpose as well, and also save the time of the Convention. It is not so important that the reported Constitution should be perfectly matured, as that it be made expeditiously. It is not necessary it should be perfect in all its details; it may be amended in the Convention; but until it is reported, we have nothing to occupy our attention.

Mr. Holmes rose again. I believe, said he, there is a spirit

of conciliation in this Convention. I came here with a disposition to yield my own opinions to those of others. Some gentlemen prefer a very numerous, and some a very small committee. I prefer, said Mr. H. a medium. Of the numbers proposed, I think the one so numerous, as to be slow and unwieldy in its motions; and the other, proposed by the gentleman from Portland, is not numerous enough to satisfy the general wishes of the Convention. He then proposed thirty-one, as a safe mean between the two extremes.

Hon. Judge Bridge, of Augusta, said, I am not satisfied with the number proposed by the gentleman from Lebanon. It is desirable that the Committee should be large enough to admit of sub-committees, to frame different parts of the Constitution, without being so much so, as to impede their business. He proposed, if the present motion should not succeed, to move that the blank be filled with thirty-three, which would be in the ratio of about one to nine of the whole delegates returned, and might be equally distributed among the several Counties.

Judge Thacher said, he saw no reason to be particularly attached to the number thirty-three. He observed, the number that framed the Constitution of Massachusetts, was twenty-seven.

Hon. Mr. Chandler, of Monmouth, said he came here with impressions in favor of a much smaller number than forty-nine. But as there is a disposition to have it numerous, I would not, said he, object to thirty-one, but consider thirty-three as the best number.

The question was then taken on Mr. Wood's motion to fill the blank with forty-nine, and it passed in the negative by a large majority.

The blank was then filled, and the resolution passed as follows: *Resolved*, That a Committee consisting of thirty-three members, be appointed to prepare and report to this Convention, a Constitution or frame of Government for the new State, agreeably to the 4th section of the act of the Legislature of the Commonwealth of Massachusetts, passed June 19, 1819, entitled "An act relating to the Separation of Maine from Massachusetts proper, and forming the same into a Separate and Independent State." *Ordered*, That the said Committee be selected in the manner following, viz. from York, five; from Cumberland, five; from Lincoln, five; from Kennebeck, five; from Oxford, three; from Somerset, three; from Hancock, three; from Penobscot, two; and from Washington, two.

Judge Parris then called up his second resolution, which passed as follows :

Resolved, That a Committee, consisting of five members, be appointed to prepare and report to this Convention, an application to the Congress of the United States, for its assent to be given, before the last day of January next, that the District of Maine be admitted into the Union, as a Separate and Independent State.

On motion of Mr. Whitman *Ordered*, That the wall pews, on the S. E. side of the meeting house, be appropriated for the use of such spectators, as may be invited to take a seat, by any member of the Convention.

Mr. Preble, of Portland, rose and observed, that his Hon. Colleague had omitted, in the Resolutions which were yesterday laid on the table, one subject, on which the Convention might find it necessary to act. The act, under which we are assembled, said Mr. P. requires us to frame a Constitution, to be submitted to the people ; and this may be either accepted or rejected. In the latter case, the Constitution of Massachusetts, is provisionally, to be the Constitution of Maine, with such modifications as the nature of the case requires. In such an event, said Mr. P. the State would indeed have a Constitution, but would be without a name, as we are not at liberty to assume the name and style of the Commonwealth of Massachusetts. To avoid the awkward predicament in which we might thus be placed, of being a State without a name—the law had authorized and *required the Convention*, to fix the style and title of the new State. The Constitution about to be framed, must be submitted to the people ; but the Convention alone, have the authority to determine the style and title. And further, as the name is a distinct subject of consideration from that of the Constitution itself, it would save the time of the Committee for drafting the Constitution, and of the Convention itself, to settle this question, while they were preparing their report. He therefore offered a Resolution, to raise a Committee to report, a proper style and title for the new State.

Mr. Whitman said, he considered the motion premature. The first thing, he said, to be settled in forming a Constitution, is the style and title of the new State. It forms a part of the Constitution, and ought to be determined on by the Committee which reports it. It is of the very essence of the duty of the framers of the Constitution, to give a style and title to the State

Continual reference must be made, in drafting it, to the name of the State ; and it appears to be a great absurdity, to form a Constitution for a State, until a name has been given it. A sound construction of the act, said Mr. W. will not authorise the Convention to fix this of their own authority, until the Constitution, which they shall present to the people, has been rejected, and then the authority will necessarily devolve upon them. The Convention will be in session in January, and it will be in season, at that time, for them to fix, definitively, the name and style of the new State, provided the Constitution is rejected. He was therefore opposed to the motion.

Mr. Holmes said, he was for having a separate Committee, and not for referring the subject to the same Committee that was to report the Constitution. That Committee, said he, can meet with no difficulty in framing a Constitution and leaving a blank for the name and style. The provisions would apply as well to one name as another. The gentleman himself would not find it a hard task to draft a deed, or bond, and leave blanks to be afterwards filled up, by any name it was wished to have inserted ; nor can I imagine that any greater difficulty will be found in this case. The Constitution which we may offer to the people, may be rejected ; but we are to be a separate state at all events ; and I should be sorry to leave the District of Maine, a thing without a name. I hope, Sir, we shall always have a name, and a *respectable* name. We must apply to Congress for admission into the Union ; but if we have no name, but that included in the Constitution, and that, together with the rest of the instrument, should be rejected by the people, by what name shall the application be made ? In what name shall we be admitted ? I should be very sorry, (said Mr. H.) that we should be admitted in blank. And as a name must be adopted in case of the rejection of the Constitution, I hope the Convention will provide us with a name.

Mr. Whitman said, the ground I took in my former observations, remains unshaken. No constitution ever was framed, without containing the name of the State, for which it was made. It would savor of absurdity, to submit to the people a constitution, that does not contain the name of the State. I do not feel the difficulty of applying to Congress, mentioned by the gentleman from Alfred. The Congress of the United States will not admit a State into the Union, until they have the form of government before them. The United States are bound to guar-

antee to each state a republican form of government ; they must therefore have the frame of government of the proposed state, presented to them. If the people reject the constitution, the Convention may, at the January Session, give the state a new name. And as the constitution of Massachusetts, must then be our constitution, this is what the Convention will present to Congress, as the constitution of the new state, for the admission of which into the Union, application is to be made. And with this, we may present the name, that may be agreed on in Convention.

Mr. Emery, of Portland, said, I think the matter in debate is a mere question of expediency. I see no objection to the course recommended by either gentleman. The Convention must meet here again in January next. If the constitution is rejected, when it is returned to the Convention, they may reconsider the name they have given to the state, and give it a new name. I see no connexion between the style and title of the state, and the great principles of the constitution. I will therefore second the motion for the appointment of a committee to report a name, which if accepted by the Convention, may be communicated to the committee, which is to prepare the frame of government.

Mr. Preble. Mr. President, I feel it my duty, without repeating the observations I have already made to explain briefly to the Convention, my reasons for bringing the subject before them at this time, and proposing a reference to a select committee. On any event, a name must be given to the state by the Convention.

The Convention by a *distinct Act*, first determine the style and title of the new State. The style and title thus fixed and determined, they will of course insert in the constitution submitted to the people. If that constitution should be rejected, the constitution of Massachusetts, with the style and title here determined, will be the constitution of Maine. I have heard much conversation on the subject of the name, and believe there is a variety of opinions. A select committee could bring the question before the Convention, before the committee on the constitution will have time to report. It may be discussed and decided upon in convention, while otherwise there will be no business before us. We then shall be ready to enter on the great principles of the constitution, and not be stopped and delayed at the threshold, by a long discussion on a name. My object was to

expedite business ; for however it may be with us, to our constituents in this case time is money. Gentlemen have argued the point, as though it was one of great importance, and urged that it should be referred to the committee for drafting the constitution, with as much zeal, as if they thought a less number was not to be trusted to report a name for the state. It may, I think, be safely confided to a smaller committee, I should propose that the committee consist of nine, to be taken, one from each county.

Mr. Baldwin, of Mercer, was strongly opposed to the motion. I consider it, said he, as belonging, of right, to the committee for framing the constitution. I think the name an important thing, and that the people have a right to act on that as well as on any other part of the constitution.

Judge Thatcher observed, that he was in favor of the motion. I do not think it of great importance, said the Judge, but it is the proper and regular way to proceed, to refer this subject to a select committee. I cannot conceive how the *rights* of any other committee will be violated by it, and least of all, can I conceive how the rights of a committee, which is not in existence, can be invaded.

Judge Dana, of Fryeburgh. Mr. President, I rise Sir, to oppose the resolution of the gentleman from Portland, because I can see no sufficient reason why we should pass it.—We have, Sir, after some altercation, and the expression of a great variety of opinions, at length come to the conclusion to appoint a large and respectable committee, coming from each county, to draft a constitution—a committee selected from the whole Convention, for their intelligence, wisdom and integrity ; and why should we take a part of the constitution, the “*style and title*,” and commit it to a different committee ? Is not the name, or the *style and title*, a component part of the constitution ? and deserving of as much consideration as any other part of it ? If we divide the subject—and commit a part of it, the *style & title*, to a select committee—why not go further and commit other parts to other committees, viz. the Bill of Rights to one ; the Legislative Branch to another ; be Executive to another, and so on ; & divide the different parts among different committees ? I hope, Sir, as we have at length come to the determination to appoint a large committee consisting of 33 of our best and most discreet members, to form and report a Constitution, that we shall submit the whole subject to them ; instead of selecting a special committee for that purpose.

The vote was then taken and decided in the affirmative.

Resolved, That a Committee consisting of nine members be appointed to consider and report to the convention a proper style and title for the new State.

Voted, That the Secretary be authorised to employ a Clerk to assist him in the duties of his office.—James L. Child, Esq. was appointed.

Voted, That the Secretary be authorized to cause a sufficient number of the rules, &c. to be printed for the use of the members.

Afternoon.—The President, agreeably to the rules and orders, proceeded to nominate the several committees, which had been determined on, which nominations were severally approved.

Committee on the Constitution of the proposed New State.

YORK.—Hon. Mr. Holmes, of Alfred, Mr. Dane, of Wells, Hon. Mr. Moody, of Saco, Hon. Mr. Rice, of Kittery, Mr. Marston, of Parsonsfield.

CUMBERLAND.—Hon. Mr. Whitman, and Hon. Judge Parris, of Portland, Hon. Mr. Lewis, of Gorham, Col. Foxcroft, of New-Gloucester, Hon. Mr. Page, of Brunswick.

LINCOLN.—Gen. Wingate, of Bath, Mr. Dole, of Alna, Mr. Head, of Waldoborough, Mr. Rose, of Boothbay, and Mr. Neal, of Litchfield.

KENNEBECK.—Hon. Mr. Chandler, of Monmouth, Hon. Judge Bridge, of Augusta, Rev. Mr. Francis, of Leeds, Mr. Redington, of Vassalborough, and Gen. Wellington, of Fairfax.

HANCOCK.—Mr. Johnson, of Belfast, Mr. Hall, of Frankfort, and Mr. Johnson, of Jackson.

WASHINGTON.—Hon. Judge Campbell, of Harrington, and Mr. Dickinson, of Machias.

OXFORD.—Hon. Judge Dana, of Fryeburg, Rev. Mr. Hooper, of Paris, and Gen. Turner, of Turner.

SOMERSET.—Gen. Kendall, of Fairfield, Mr. Allen, of Norridgewock, and Mr. Baldwin, of Mercer.

PENOBSCOT.—Major Treat, of Bangor, and Mr. Wilkins, of Orrington.

Committee to make applications to Congress.

Hon. Judge Green, of South-Berwick, Hon. Judge Cony, of Augusta, Hon. Judge Ames, of Bath, Mr. Jarvis, of Surry, and Hon. Mr. Clap, of Portland.

Committee on Elections.

Hon. Judge Thacher, of Biddeford, Mr. Emery, of Portland,

Mr. Burnham, of Unity, Mr. Virgin, of Rumford, and Mr. Dearborn, of Hallowell.

Committee on the style and title of the New State.

Mr. Preble, of Portland, Mr. Allen, of Sanford, Mr. Wood, of Wiscasset, Mr. Cutler, of Farmington, Mr. Stetson, of Hamden, Mr. Abbot, of Castine, Mr. Chandler, of Paris, Mr. French, of St. Albans, and Mr. Vance, of Calais.

Committee on Leave of Absence.

Mr. Moody, of Hallowell, Mr. Herrick, of Bowdoinham, and Mr. Wood, of Lebanon.

Committee on the Pay Roll.

Gen. Irish, of Gorham, Mr. Thacher, of Saco, and Col. Reed, of Waldoborough.

Ordered—That the returns of the members, and the remonstrances against elections, be placed in the hands of the Committee on Elections.

A remonstrance against the election of Samuel Davis, of Goldsborough, was committed.

Voted, That the Sergeant at Arms be directed to provide a suitable apartment for the committee on the Constitution.

A communication was received from the Office of the Secretary of the State, containing a list of the returns of votes on Separation, and the Governor's Proclamation, declaring the vote to have been obtained,

Which was ordered to lie on the table.

WEDNESDAY, OCT. 13.

On motion of Judge Green, it was

RESOLVED, That a committee of three be appointed to take into consideration and report upon the necessary expenditures of the Convention, exclusive of the pay roll :—and the Hon. Mr. Gage, of Augusta, Mr. Shepley, of Saco, and Mr. Hsley, of Portland, were appointed.

A remonstrance against the election of Joseph Neally, of Monroe, was read and committed to the Committee on Elections.

Judge Thacher, Chairman of the committee on Elections, moved, that the committee have leave to sit during the session of the convention.

Mr. Wallingford, of Wells, considered it unnecessary to pass such a vote, as it is usual in deliberative assemblies, for committees to retire at their pleasure.

Judge Thacher said, I do not profess to be much accustomed to the usages of deliberative assemblies ; but I think every member of the Convention should be in his seat, unless he have leave of absence

Judge Green observed, it has been usual in the House of Representatives of this Commonwealth, for committees to retire without leave. But they retired to apartments in the same building, and could be called in at any time. Perhaps this case is different, as they will be under the necessity of leaving the house. It is proper the Convention should know where to send for them. Leave was granted.

Judge Thacher moved, that the member from Dearborn, who is also Town Clerk, and had omitted to sign the certificate of his return, should have leave to certify, as required by the law.

Mr. Wallingford observed, the law will not authorize the Convention to this effect. The certificate should have been made in open town meeting.

Judge Green said, the member has an unquestionable right to make the amendment proposed, at any time, without leave. His situation is peculiar—it is necessary for him to certify for himself. It was his modesty that prevented, and a man ought not to suffer for his modesty. So excellent a quality ought to be regarded wherever found. I hope the Convention will not put the member to the trouble of obtaining a new certificate, when the present one may be perfected in a moment. I will therefore second the motion.

Hon. Judge Cony, of Augusta. I conceive, Mr. President, it would be highly improper for the Convention to alter or amend any paper which may be presented to it. We ought not to interfere, as we cannot give the power that is asked for. If the member can amend, he can do it as well without consent as with it. I hope Sir, the Convention will take no order on the subject. We may find it a troublesome precedent.

Judge Thacher said, it would be improper in the committee to suffer any alterations to be made in papers, without leave of the Convention, from whom they received the papers, for there may be a remonstrance, and the alteration would then be called a forgery.

Judge Green observed, the members of the Legislature have had leave to amend their certificates, and to have them properly certified at the adjourned session. If we give the member

leave, it will save him the trouble of getting a new copy of the record, and can do no injury. I therefore hope it will be granted.

The motion passed in the affirmative.

On motion of Judge Cony, *Resolved*, that Col. Trescot, of Lubec, Mr. Wallingford, of Wells, and Mr. Tucker, of Bristol, be a committee to consider and report what other acts, resolves and other documents, it may be proper to obtain from the office of the Secretary of the Commonwealth of Massachusetts.

Several members had leave of absence until Monday.

Afternoon.—On motion of Mr. Kingsbery, of Gardiner, it was

Resolved, That a committee of nine, be appointed to consider and report what compensation shall be allowed the members of the Convention; and Messrs. Low, of Lyman, Adams, of Gorham, Locke, of Chesterville, Steele, of Brownfield, Tuttle, of Canaan, Spear, of Thomaston, Atherton, of Prospect, Leonard, of Brewer, and Burgin, of Eastport, were appointed.

A petition of S. Hayward, and others, relating to exemptions from Military services, was committed to the committee on the constitution

Resolved, That a committee of Finance be appointed to devise ways and means to defray the expences of the convention, should they exceed the amount received from the Treasury of the Commonwealth. Messrs. Clapp and Hsley, of Portland, and Mr. Dearborn, of Hallowell, were appointed a committee.

The committee to whom was committed the subject of the style and title of the new state, reported *An Ordinance*, determining that it should be called the

COMMONWEALTH OF MAINE.

On motion of Mr. Dearborn, of Hallowell, tomorrow at 10 o'clock, was assigned for taking the report into consideration.

Adjourned.

THURSDAY, OCT. 14.

Agreeably to assignment the Convention took up the report of the style and title of the new state.

Judge Thacher, moved to postpone the consideration of the subject, until the committee on the constitution should make their Report, that they might be present at the discussion.

Mr. Wallingford, gave some reasons for seconding the motion.

Mr. Preble, expressed his sense of the necessity of proceeding

Mr. Preble expressed his sense of the necessity of proceeding to the discussion. It is very important, said Mr. P. to save the time of the Convention. Every subject, however unimportant, which has hitherto been brought before this body, has undergone considerable discussion ; and considerable time will probably be consumed on this subject. Shall we then delay this discussion, on business of less importance, until we are called on to act upon that of much greater importance—the principles of the Constitution itself? It has been stated, as one reason for the postponement, that the Committee for framing the Constitution, have had this subject before them. Sir, it is not to be presumed they have undertaken to decide upon what was not committed to them. Sir, I can conceive of no important reason for the postponement. It needs no spirit of prophecy to foretell, from the experience we have already had, that the time taken up in this convention will be much protracted. We sit here, Sir, at an expense, of little less than five thousand dollars a week ; and our constituents, who have this to pay, will be desirous of knowing why we did not proceed to discuss the subject of the style and title, when, if we do not proceed, we must sit idle with nothing to do. The motion to postpone was negatived.

Mr. Moody, of Hallowell, moved that the report might be accepted.

Mr. Parsons, of Edgecomb, moved to amend the report, by striking out the word *Commonwealth*, and inserting *State*, on account of the saving of time and expense in writing and printing.

The motion was seconded by Mr. Allen, of Sanford, for similar reasons.

Mr. Wallingford expressed himself in favor of the word *State*. It is, said he, the common designation of most of the States. But one State has been admitted into the Union, since the adoption of the constitution, with the style of *Commonwealth*. Vermont has that of *Commonwealth* or *State*. There is no provision in the Federal Constitution for admitting a *Commonwealth* into the Union. There seems to be no good reason for preferring *Commonwealth*. The word *State* is equally good and more convenient.

Mr. Cutler, of Farmington, rose to explain the reasons which influenced the Committee, in deciding in favor of *Commonwealth*. The word, he observed, has more frequently been

used ; is more consonant to our feelings, and we are, in some measure, attached to it. The Committee thought it more proper to retain it, as we had so long been accustomed to it, and felt a kind of pride in the designation. It is not a subject, however, of much argument, but rather of feeling and opinion.

Judge Cony said, he thought the motion susceptible of a division, and wished the question to be taken on the amendment.

Mr. Preble. One thing was omitted by the gentleman from Farmington, in his remarks, which influenced the Committee in their decision. Much inconvenience will be experienced by the change. All our constables, sheriffs, town officers and others, are in the habit of using and writing the word Commonwealth, and if you alter it to State, many mistakes will be made. I think there are reasons for retaining it, even on the score of economy.

The name of Commonwealth continued Mr. P. seems to designate our civil polity. It belongs to us, as much as to those from whom we separate. It is a name of the revolution, and our feelings are therefore connected with it. It seems also to be a title more respectable. As to what is said of other new States adopting the name of State, it is no example for us. They have been formed of Territories, and never were a part of a Commonwealth. They are a new people, as well as a new State. We are comparatively an older people, and a part of an old Commonwealth.

Mr. Adams, of Gorham. I hope, Sir, the motion to strike out the word Commonwealth will not prevail. Commonwealth, united with Maine, will sound much better than State. I am not sure I should vote for the word Maine, unless it is to be coupled with Commonwealth.

Judge Cony. Mr President, I rise to express my approbation of the style of Commonwealth. I look, Sir, with much veneration on the men who formed the Constitution of Massachusetts. This State is now to be divided ; and we carry with us an equal right to all its privileges, and among them that of the name of Commonwealth. I am not much in favor of the word Maine, but am decidedly in favor of Commonwealth as connected with it, and therefore hope the motion will not prevail.

Judge Thacher. I do not think this is a subject of great importance. There is indeed some objection to the word Commonwealth, on the score of its length. Towns have, in some

instances, felt the inconvenience of having long names. The towns which were incorporated with the names of Pepperelborough and Pownalborough, have since had them changed to Saco and Dresden, on this account. And inasmuch as it will be easier to write State, than Commonwealth, I should rather prefer it.

Mr. Wallingford, in reply to the gentleman from Portland, said, that we should be as likely to make mistakes in writing *Massachusetts* as *State*.

The motion to strike out "*Commonwealth*" prevailed; 119 being in favor, and 113 against it.

It was then voted to insert the word "*State*" in the room of the word stricken out.

Mr. Tucker, of Standish, moved to strike out the word *Maine*—for the purpose of inserting "*Columbus*."

Mr. Vance hoped the motion to strike out *Maine* would not prevail. It is the name by which we are known in this country and in Europe. All our maps, our plans and records, have that name, as the designation of the Territory. If it were altered, perhaps half a century would pass away, before the new name were as well known. It is suitable for us to retain this name, as for many purposes we shall be the *main* State in the Union; and as the original records of the province have this title, he hoped it would not be altered.

Mr. Jarvis, of Surry, hoped the motion would prevail; and there was one word, which upon the principle of economy, would be a good substitute. It was an old name, and might be found in the Bible, and was composed but of two letters, which were A-i.

Judge Ames, of Bath, wished to give some reasons for calling in the committees to vote on the subject. It is a matter of comparative indifference to me, said he, what is the name or style of the State. But it is apparent that a deep interest is taken in this question, and the members of the committees will be desirous of expressing an opinion upon it. They compose a part of this Convention as much as the members now present. I therefore consider it the duty of the Convention to give them an opportunity of acting on important subjects, and that no question should have been taken on this subject, until they were present to act with the Convention. I was desirous of having it postponed, to give them the privilege of debating, and voting upon it; and I think it strictly proper, that they

should be called in for that purpose. It is a matter of importance to them and to the people of Maine. I therefore, move, that after the close of the debate on this subject, and before the final question is taken, the several committees be called in.

Judge Thacher was of opinion, it was proper that in all important questions, the committees should be present; but he would ask the Hon. gentleman, if it was suitable to go on and discuss a question, and then call in the committees to vote? If he wishes for a postponement, I have no objection; but to discuss it first and then to postpone it, for the purpose of giving them an opportunity of voting, I can see no advantage in it.

Judge Cony was desirous that such a decision should be had on this subject as to prevent the necessity of calling in the committees; and hoped it would be postponed, that they might not be interrupted, in their arduous duties.

Adjourned.

Afternoon.—VOTED, on their suggestion, that the committee on the subject of obtaining documents, &c. from the Office of Secretary of the State, be authorized to enquire what documents it will be proper to obtain from the office of the Secretary of the United States.

Judge Green, moved that the subject of the style and title of the State, be postponed until the committee on the constitution can conveniently attend.

Mr. Adams, of Gorham, seconded the motion; he thought it of sufficient importance to induce the Convention to wait for the aid of those gentlemen.

Mr. Preble observed, he had authority to state, that the committee would be in this afternoon to report in part.

Judge Green had no objection to its lying on the table, provided it should not be taken up at a time to interrupt the important labors of the committee.

Voted, That the report lie on the table.

Remonstrances against the election of Mr. Vance, of Calais, Mr. Whitney, of Lincolnville and Mr. Norton, of New-Portland, were committed to the committee on elections.

Judge Thacher, Chairman of the committee on elections, reported in part; that, on examining the law, the clause relating to elections, seemed to require, that it should appear that the selectmen presided at the meeting; and that in many of the returns, it does not appear who presided at the meeting; or that a declaration thereof was made in town meeting; but

inasmuch as it sufficiently appears that the meetings were legally held, and a certificate of their elections made, the committee are of opinion, that they are sufficiently formal to entitle the members to their seats, with certain exceptions.

Mr. Preble moved, that the report be recommitted to the committee to report on the cases in which there were remonstrances.

Mr. Vance considered it unnecessary to recommit, as if a report were made and accepted, it would prevent a seat being vacated, if the remonstrances were supported.

Mr. Wallingford supposed the duty of the committee was confined to those cases, where objections were made, or remonstrances presented, against the returns.

Mr. Emery, of Portland, said, it is extremely important that the committee should be specifically instructed as to the extent of their duty. It was supposed by the committee to be their duty to examine and report upon all the returns.

Judge Green observed, that the first examination was only preliminary to the choice of a President. The committee on elections might have reported on the cases only, in which there were remonstrances, or they might report as they have done. And he thought the report should be recommitted, in order that they should attend to such cases as they think have legal objections or remonstrances, and give the parties a hearing.

Voted--To recommit the Report.

The Hon. Mr. Holmes, Chairman of the committee appointed to frame a constitution for Maine, entered the Convention and asked leave to make a report in part ;—which was a Preamble and Declaration of Rights, making the First Article of the Constitution.

After reading the report, the Chairman observed, that the committee thought it proper to report a Preamble and Bill of Rights, not for the purpose of discussion, or with a view that the Convention should act upon it immediately ; but for consideration, and that each member might deliberate upon it in private, and weigh its several provisions ; and that it was the desire of the committee, that it should not be taken up, until they were present. He then moved, that Monday next, at 12 o'clock, be assigned for taking it into consideration. He was not, however, prepared to say, that the committee would then be able to make a report in full. It was then

Voted, That Monday next, at 12 o'clock, be assigned for tak-

ing the report of the committee into consideration, and that 500 copies be printed for the use of the members.

On motion of Mr. Shepley, of Saco, it was

Resolved, That the committee on Elections be directed to examine all the returns of the members of this Convention, and report who and what members of the Convention are duly elected, and who are not duly elected, and the reasons therefor.

Mr. Wallingford moved, that no memorial, remonstrance, or other evidence touching the returns of members, be received after to-morrow.

Mr. Pieble hoped the motion would not prevail. I think this course, said he, would be too illiberal. The District of Maine is an extensive territory—some members have not yet arrived, and there may be other remonstrances to be presented. I should think a week or more ought to be given, to receive evidence and documents to substantiate the claims of members to their seats—to counteract or support remonstrances—and to receive other remonstrances, if any others are intended to be presented.—If we pass the resolution, submitted by the gentleman from Wells, we may as well at once say, that we will hear no evidence.

Voted, on motion of Judge Greene, that the Resolution lie on the table.

Adjourned.

FRIDAY, OCTOBER 15.

The President stated the question before the Convention to be on the report of the committee for determining the style and title of the new State as amended by the Convention; and it should be called the *State of Maine*.

Judge Cony, of Augusta, after enquiring whether he was in order, and adverting to the subject on which they were about entering, that of giving the future name to the new State, observed, that he had no aversion to the proposed existing name—his prepossessions and impressions from long habit were entirely in its favor. But he was led by a view of consecrating the opening era of the new community, by rendering an act of justice long delayed; to propose as a substitute the name of COLUMBUS. By the successful usurpation of a mercantile adventurer, a Venetian manufacturer of maps and charts, the real discoverer of the new world had been forever defrauded of the glory which was his due, of affixing his own name to the Western continent. Sir, what idea either great or distinguished can we

affix to *Maine*—I have not been able to trace it to any satisfactory source—but, Sir, the name of Columbus is associated with all that is noble—all that persevering fortitude, or manly virtue could bestow or bequeath. The success of his voyage of discovery stamped immortality on his name—on such a name the mind will always delight to contemplate ; and will repose with satisfaction. The 11th of October, the day on which this Convention commenced its session, was the anniversary of that on which Columbus first discovered signs of land, which the dawn of the following morning fully confirmed. —Judge Cony also alluded to the late Ordinance of Congress, by which the new national ships of the line, were to be named after the different States, in the process of which, the turn of Maine would come late—but already, he said, the finest ship in the navy, bore the name of Columbus, and after a lapse of a few years it would be supposed, she was christened for our State. The question, however, he considered, was very much a matter of taste and feeling.

Judge Thacher addressed the Convention, by observing, that as names of things were but sounds or words they hardly afforded grounds or data for much argument *a priori*; in favour of one over another ; and he acknowledged he felt very little preference on that account. The name of Columbus was about as grateful to his ear, as that of Maine ; but he did not perceive any good reason for the alteration. The territory now to be made a new State, and about to take the rank of a nation abroad, is already very well known, in the commercial world, by the name of Maine ; which was a good reason with him why a new name should not be given it. The District of Maine is probably as well known among foreign nations as the state of Vermont ; which has no commercial interest and connections, and is rather regarded abroad as a settlement in the wilderness. To give the new State any other name than that by which its territory and district has always been known, would tend to introduce some uncertainty in the opinions of foreigners respecting its geographical situation, at least for a time.—He doubted whether the name of Columbus was much known by the people in general throughout the Old Continent ; and if his name was mentioned in the seaports of the nation, under whose flag he made his discoveries, it is doubtful whether many would know much about him, or where his discoveries were ; and the probability is, that application must be made to some antiquarian to get information.—Colum-

bus is more known and more frequently spoken of in the United States than any where else—The Judge said, he was not disposed to deprive old Columbus of any honours, but he did not think that it was among them to give a name to the State of Maine. Columbus did not discover this part of the continent, nor did he know, as long as he lived, that the Continent he discovered, extended to these latitudes—This country was first discovered by Cabot, Gosnold, and others—He thought the name of Columbus, if known abroad among the commercial nations, would more naturally carry the mind to some part of South America, or perhaps to the Columbia River far beyond the Mississippi, on the Western shores of the Continent. He wished not to break up and derange the associations that time and business have well fixed in people's minds. The District of Maine is every where known as to its situation, commerce and products ; and the State of Maine will naturally take its place in the human mind—The mind, he observed, had its regular laws of association, as the material world has its laws of gravity, attraction, &c. ; and these associations were as liable to be disturbed and broken, as the elements were to convulsion and tempests ; he concluded with expressing his wishes, that his worthy friend, (Dr. Cony) whose age was about the same as his own, might have the pleasure with himself of passing the remainder of their days in peace and tranquillity, under the old name of Maine.

The motion for striking out Maine and substituting Columbus, was lost.

Mr. Adams, of Gorham, then moved a reconsideration of the vote of the Convention yesterday to amend the report of their committee by striking out the word *Commonwealth* and inserting *State*—with a view to the restoration of the former, as it was reported. He briefly repeated the reasons which he had stated on the former discussion.

Mr. Parsons, of Edgecomb, saw no objection to the union of two monosyllables. In common parlance, Maine would always be called a *State*—Why then should we style it *Commonwealth* ? What was the use of giving the name of Jonathan, when it would always be called after all, plain John ?

Judge Thatcher enforced the idea of the gentleman from Edgecomb—He had no abstract preference for either of the proposed appellatives—and did not think it of any very great importance, which of them was adopted ; but still a slight dif-

ference might be sufficient to turn the scale. There was a greater facility in writing and pronouncing *State* than *Commonwealth*. There was one style applied in some parts of the union to the solemnity of judicial proceedings and another used in the familiarity of ordinary conversation. Virginia, Pennsylvania and Kentucky assumed the solemn style of *Commonwealths*, but they were never spoken of except as *States*. He thought that the *Court* language should be assimilated to the common language, as nearly as possible. Nevertheless if *Commonwealth* should prevail, he would adhere to it as long as he lived.

Gen. Chandler, of Monmouth, expressed his preference for the term Commonwealth as being more sonorous and respectable.

Mr. Moody, of Saco, thought that as the different communities composing the union were known only as *States*—that new members were admitted into it as *States*—and that its different sections were recognized by the national executive, legislative and judicial departments only under that appellation, it had better be adopted in the present instance.

Judge Dana. Mr. President—as we have decided on retaining *Maine*, as the name of our new State, I hope we shall adopt *Commonwealth* in preference to *State*, not merely because the Constitution Committee, of which I am a member, as well as the Committee selected for the purpose, have reported it; but because *Commonwealth*, as connected with *Maine*, has a more agreeable sound than *State*. Two monosyllables or short words, like *State of Maine*, do neither read nor sound well together, when applied to such a subject. Besides, we have always been accustomed to the term *Commonwealth*; we have grown up under it, and are habituated to its pronunciation; it is inserted in all our writs, executions and civil processes, and in all our indictments and criminal processes in our judicial proceedings. Commonwealth is a more appropriate term, as it better expresses the thing intended to be named: it is a republic, a government of the people. *State*, whether by association or not, would seem to be applicable to a small territory, and Commonwealth to a large one; as the Commonwealth of Massachusetts, of Pennsylvania and Virginia; while small governments use the term *State*. When we consider the great extent of our territory, more than 300 miles in length, with a sea-coast of more than two hundred miles, and the many maritime

towns rapidly increasing in wealth and population, and rising into importance ; and when we consider that in point of wealth, commerce and navigation, and population, this must be the largest State east of New York—the style and title of *State of Maine*, would seem to be inapplicable, and not significant, but rather *small* and diminutive, when compared with *Commonwealth of Maine*. I hope, Sir, we shall adopt the latter, which will be more appropriate, will better express our extensive territory, population and wealth.

Mr. Emery, of Portland. It frequently happens that a difference of opinion prevails on subjects from a want of recollection of the import of phrases employed in discussion. I regard the terms, State and Commonwealth, as nearly synonymous. If any gentleman, however, should fear that the adoption of the term State would occasion associations of insignificance from the near connexion of two monosyllables, it is believed that upon consideration that fear will vanish. Should it be found that enough of respectability is included in the definition of the word in question, it is hoped that the reluctance to retain it will be dismissed. As a mean of quieting alarm in this matter, I would beg leave, Mr. President, to introduce the meanings of the several terms which have been employed in this discussion. I will give their sense according to some of the best lexicographers—not for the purpose of critical examination : but simply that a correct estimate may be had of the general acceptation of literary men.

State—The definitions are, condition, circumstances of nature or fortune, modification of any thing, estate, signiory, possession, the community, the public, the commonwealth ; a republic, a government not monarchical, rank, condition, quality, solemn pomp, appearance of greatness, dignity, grandeur ; a seat of dignity, the principal persons in the government.—What noble associations !!

Republic—Commonwealth—state in which the power is lodged in more than one.

Commonwealth—A polity, an established form of civil life ; the public, the general body of the people, a government in which the supreme power is lodged in the people—A republic.

Our minds do not always adopt the same course of reasoning to bring us to similar conclusions. The style and title “State,” has already been accepted. It is not requisite that we should

develope the grounds for giving it our preference. I may however remark, that I am not induced to that preference from the mere consideration of saving time and paper, in writing. But I can blame no gentleman for preferring it on that account. I am satisfied that we never ought to tremble lest insignificance will attach to the term. I am satisfied that enough of pomp and dignity is included in the appellation. We shall not be deemed less a republic. And under such a form of government I wish always to live.

Mr. Bridge, of Augusta, was of opinion that the style of Commonwealth best, comported with the brevity of Maine, and corresponded to the slenderness of its sound.

The motion for reconsideration was lost.—101 being in favor, and 140 against it.

The report of the Committee as amended, was then accepted as follows :

AN ORDINANCE

Determining the Style and Title of the State.

BE IT ORDAINED AND DETERMINED, by the Delegates of the people inhabiting the Territory now called and known by the name of the District of Maine, in Convention assembled, that provided the District of Maine aforesaid shall, before the fourth day of March next, be admitted into the Union, as a separate and independent State, on an equal footing with the original States, the said State shall be known and called by the style and title of the *STATE OF MAINE*.

Afternoon.—Ordered, That all ordinances, and resolves in the nature of ordinances, passed by the Convention, be signed by the President of the Convention, and attested by the Secretary.

Col. Atherton presented the petition of Gen. Varnum, and others, Officers of the 2d Brigade, 12th Division of Militia, which, with a petition from Jos. Wing, and others, was assigned to the Committee who have under consideration the subject of the Constitution.

The committee on the subject of the pay roll of the members of this Convention for their travel and attendance, reported the following resolution, which was read and accepted.

Resolved, That there be allowed and paid to the members of this convention, for their travel and attendance, as follows, to wit: to each of said members, two dollars for each twenty miles' travel, in going to and returning from said convention,

and to each of said members, two dollars for each day's attendance thereat.

Resolved, That Mr. Locke, of Chesterville, Mr. Sheply, of Saco, and Mr. Herrick, of Bowdoinham, be a committee to consider and report upon the manner of receiving the returns from the selectmen of the several towns, and assessors of the several plantations, of the votes which may be given in for and against the constitution which may be submitted to the people for their consideration and adoption.

Adjourned.

SATURDAY, OCTOBER 16.

Judge Tbacher, from the committee on elections, observed, that the committee begged leave to divide the report which he was about to make, into three parts; the first of which should comprehend the returns from those towns which were perfect, or had only immaterial defects; the second to include the returns which had material defects in form, but to which there had been no objections made; and third, those returns against which remonstrances had been preferred. This method of reporting was assented to on the part of the Convention, for the greater convenience and dispatch of business.

The Judge then reported that the returns were all sufficiently perfect except those of 15 towns, viz. all from the county of York, were sufficiently correct; all from Cumberland, except that from Standish; from Oxford, except those from the towns of Bethel and Buckfield; from Lincoln, except those of Alna and Hope; from Kennebec, except that of Rome; from Somerset, except those of New-Portland and Mercer; from Hancock, except those of Orland, Ellsworth, Gouldsboro' and Monroe, and from Washington, except that of Calais. This first part of the report expressed an opinion that the members from all but the excepted towns were entitled to their seats in the Convention—it was then moved and passed that the first part of the report be accepted.

Judge Tbacher, then read the second part of the report, which related to all the excepted towns above enumerated, but those against which remonstrances had been made; with a statement of the particular defects, which appeared upon their returns; those defects were stated to be rather those of omission and negligence, than of design: in some, the Town Clerk had omitted to sign the return, in others the Selectmen. The committee merely reported the facts, without giving their opin-

ion on the subject, preferring, as the Chairman observed, to leave it unembarrassed before the whole Convention.

Judge Green, then moved that the report lay upon the table, and that the members from the towns mentioned in it, have liberty to procure correct returns at any time previous to the adjournment of this Convention without day.

Mr. Preble thought the course suggested by the gentleman from South Berwick was exposing the members from those towns to unnecessary trouble. The defects appeared to him to be mere matter of form, and unsubstantial. It was stated in the report that the towns had proceeded perfectly fairly and regularly in making the elections;—that the members returned were the persons chosen, and there was no remonstrance against their holding their seats. These appeared to him to constitute all that was essential. The statute under which the Convention sit, required more; but the provisions of this statute, so far as respects the return of the delegates in, was a *copy from the old Act*, which Act, when first reported as a bill to the legislature, left the question of the Separation to be decided by the Convention. That bill was amended, and the question referred to the people; but the particularity with respect to the return of the members, though the reason for it had ceased, was permitted to remain. That particularity he thought ought now to be regarded as a mere matter of form; that a liberal construction should be given to the provision; and that the sitting members referred to should be declared entitled to their seats.

Judge Green begged not to be considered as wishing to expose any members of this body to inconvenience or embarrassment; but on the contrary, his object he said, was to obviate difficulty, by allowing those members to sit during this session, and on their return home to have their election certified in due form for the meeting after the adjournment.

Judge Thacher observed, that if this motion should not prevail, or if the gentleman should withdraw it, he would move that those members should be admitted freely to their seats. He made some pertinent and liberal remarks on the subject, and Judge Green withdrew his motion, remarking that the Hon. Judge's suggestion and resolution completely met his views. It was then on motion of Judge Thacher,

Resolved, That the members from the towns mentioned in the second part of the report be considered as legally chosen to this convention.

Judge Thacher then resumed his report, and read the third part which comprehended the returns, against which there had been remonstrances. The first remonstrance considered, was that of certain inhabitants of Gouldsborough, against the election of Samuel Davis, who had formerly been a resident in that town, but had sold his property previously to his election, and had moved from that place.

The committee reported that he was notwithstanding entitled to his seat. Accepted.

The next remonstrance was against the election of Joseph Nealy, from the town of Monroe. The reasons stated in the remonstrance were, that said Nealy was elected by a plurality of two votes, and that there were two votes given in by persons who were not inhabitants of Monroe, and not entitled to vote. It appeared to the committee, that one vote was given in by a non-resident, but through ignorance, he supposing himself to have a right so to do. With respect to the other case, there was no evidence before the committee but that he was entitled to vote; they therefore could not consider the latter as an illegal vote. The said Joseph Nealy then was elected by a majority of one vote. The committee were therefore of opinion that the illegal vote being cast through ignorance, and not with fraudulent intention, that the sitting member from that town is duly elected: And it was so *resolved*.

The third case was that of William Vance, Esq. returned a member from Calais. It appeared that Mr. Vance was not an inhabitant of Calais, but lived on an unincorporated plantation adjoining. Judge Thacher said the committee agreed upon the facts in this case, but were divided upon the law resulting from them; they therefore did not wish to express an opinion in this report on the law, but preferred that as it was an important case, it should be discussed and settled by the whole body. The question therefore before the Convention under this part of the report was, can a member be legally returned a delegate to this convention, who is not an inhabitant of the town from which he is returned?

Judge Thacher, in order to bring the subject properly before the Convention, moved that Wm. Vance, Esq. be considered as legally returned a member of this Convention from Calais. To support this motion he observed, that the whole law relating to this case was drawn from the act of the Legislature, which authorized the meeting of this Convention. He stated

the qualifications of Representatives, compared the situation of the delegates with them, and showed the difference between the cases. He observed, that nothing in the act would lead him to suppose it the intention of the Legislature to make the qualifications of Delegates to this Convention similar to those of Representatives to the General Court.

Mr Virgin, of Rumford, one of the committee, was decidedly opposed to the admission of Mr Vance to a seat in the Convention. From a very close examination of the act, he said, he was so far from being convinced of the truth of the Hon. Judge's remarks, that he was more confirmed in the opinion he had formed. The act provides that towns may choose the same number of Delegates that they may Representatives; and that sixty members, the number that forms a quorum in the House of Representatives of Massachusetts, shall also form a quorum in this assembly; all tending to show that the Legislature, meant to assimilate this body, in respect to the qualifications of its members, to that of the House of Representatives. He was of the most decided opinion, that from a fair and impartial construction of the law, the member from Calais was not entitled to his seat.

Judge Green said, he was disposed to give a liberal construction to the law, and not strain to discover what was the *intention* of the Legislature, but to take the act as it was; and on that principle he was clearly of opinion that the member was duly elected. The act provides that the qualifications of the electors of should be the same as those of Senators;—now *they* choose from the whole county or district—why then should not a Delegate have the same extensive privilege?

Judge Thacher observed, that it had been very correctly stated by his Honorable friend from South Berwick, that the Convention and the rights of its members, were mere creatures of the statute which called them together, and to that every one must resort to see what were his particular powers and rights. He said he had minutely looked into that law, and he could not find a single word or phrase that expressly related to the qualifications of the persons who should be members of the Convention. Nor could he find any particular words from which a legal inference might warrant the conclusion, made by those who contended, that the members must be residents in the towns, *they were chosen to represent*, as Representatives are. The Constitution of Massachusetts, says, *the Representative*

shall be, among other qualifications, an inhabitant of the town he is chosen to represent. Were it not for this clause, the towns might elect, for their Representatives, persons having the other qualifications, though they did not live in that town, as it is well known the people of England do. Now there is no such restrictive clause, or any thing like it, in the law under which the Convention is called into existence. But, he observed, it had been repeatedly demanded by those opposed to the member's holding his seat, what the Convention would do, if a town should send a minor, or a black man?—would not the Convention have a right to turn them out? He said he thought the Convention might be excused from giving a direct reply to such a question; but he as an individual felt no difficulty or aversion to giving a direct answer to all such questions, by saying, he should think it his duty to hail them, *black or white, as brother Conventioners.* If a town had a black man in it, or could find one out of it, whom they had rather confide their interests in than a white man, he did not think the Convention had any right to exclude him on account of the color of his skin.

There was one view of the subject, which, he thought, ought to satisfy all those who opposed the seat of Mr. Vance, on account of his not being a member of the town he is elected to represent. They had attempted to raise an argument against the sitting member, on a supposed analogy between the mode of electing Representatives, and the election of Delegates. This he said, might be a good mode of argument if the two cases were perfectly alike in all their material bearings, and *if the Constitution did not make residence absolutely necessary for a Representative, while the law does not make residence necessary for a Delegate.* Now this want of analogy in the two cases, totally destroys the ground of all their analogical reasoning. But if due attention be paid to another fact, the argument from analogy will conclude fully, and with all its force, in favor of Mr. Vance's holding his seat: the fact is this—the electors of delegates, are not all the same as the electors of representatives, but the same as the electors of Senators. And in choosing Senators, the electors are not confined to any town, but the county, for their candidate; hence the argument from analogy is, that if the person chosen for any particular town, is an inhabitant of the county, he is legally qualified for a Delegate.

Mr. Vance, the sitting member. observed, that something had

fallen from the Hon. gentleman from Rumford, which tended to implicate him. He felt it his duty to state to the Convention, that he had been absent from the neighborhood of Calais for three weeks previous to the election; that he had made no effort to effect his election; that he owned a considerable estate in Calais, and had been the agent of that town in important transactions, in which he had always given satisfaction, for a number of years.

Mr. Emery, of Portland, said, he was on the committee who made this report, and sincerely regretted that a difference of sentiment had arisen among the members of the Committee. The objection against the election of Mr Vance, ought not to prevail, unless upon the most incontrovertible reasons. Mr. E. possessed a strong hope, that, from the uniformly candid and accommodating spirit which had marked the proceedings of the Convention in regard to the returns of members already quieted in their seats, that no resort would be had to a nice and capacious construction for the purpose of excluding the gentleman who came from a remote part of the District. That his conduct had not been perfectly fair and honorable in the course of the election, there was not a shadow of evidence.

We are called upon by the remonstrance, to destroy the rights of the majority of the electors of Calais. And why? Because simply that majority have selected a long tried and faithful agent in other affairs, as one, in their opinion, the best qualified to aid in the work before us. They certainly were the best judges of the person most acceptable to them. And they displayed an independence of that local jealousy of merit as confined to town lines, which has so often been lamented. But it is suggested, that upon his being asked whether he believed that a person not an inhabitant of a town could be sent as a delegate, he avowed his belief that it would be perfectly legal; and the persons remonstrating thought that the opinion so given, had great influence in securing his election.

It amounts to a declaration that he thought himself qualified for the office? And had he lost the liberty of speech? Had not he a right to reply to such a question? And may it not well be asked whether every candidate for election, does not tacitly, or expressly, assert his qualifications for the station? A majority of the town united in this opinion. The others who voted, it is presumed, either from the circumstance of their belief of his ineligibility, or from other motives, sought to prevent his elec-

tion. They voted according to their sentiments and their rights. But they failed, because men could not be brought to coincide with them in sentiment. No doubt can remain that they were faithful to themselves, and did their best to effect the election of their favorite. They were unsuccessful. The rights of a minority are to be respected, and preserved to their utmost extent. But in doing that, we are not to deprive the majority of their privilege, when they have done nothing dishonorable or unjust, nor any thing to prevent the free exercise of the elective franchise of the minority.

The law under which we have here assembled, does not confine the choice of members to the towns in which those members live. Shall we be wiser than the law?

But it is said, that our construction should be as strict in this respect, as with regard to a Representative to the General Court. The arguments of gentlemen who have preceded me, would have removed every doubt from my mind, had I for a moment entertained any. But I would submit to the judgment of the Convention, whether a good reason may not exist for omitting the requisition of residence. We know that the exercise of legislative power binds the constituent from the completion of the statute which may be made by virtue of that legislative power. The elector has no opportunity of revising or objecting: he must submit to the law as his representatives agree, after being sanctioned by the Executive. But as to our powers, we are simply as agents for our constituents, to digest and submit to them, a set of principles agreeably to which, we expect our laws shall be framed. The instrument which we may form, will return again to the people for their deliberate revisal. They can ratify the doings of their agents then in their town meetings, or they can disapprove them. Till then our acts have no binding efficacy with regard to those who have confided to us the important concerns in which we are engaged. The distinction between the office of a representative and that of a delegate to this Convention, in this view of the subject, is strikingly and strongly marked.

As to the circumstance that 60, are made to constitute a quorum in the House of Representatives of Massachusetts—and also of this assembly—it does not afford the least illustration to the argument from analogy—That enumeration was merely arbitrary for the convenience of determining when those who might meet should commence business.

However, it is still asserted that if we do not confine the elections to inhabitants of towns who send delegates, we might have inhabitants of the British Provinces, imposed upon us—Can any gentleman be serious in stating that he believes there is the least danger of such an occurrence?

The case of Mr. Vance, is of a citizen of the United States, living in the plantation adjoining the town of Calais, and owning property in that town, which has selected him as their delegate. He has been long known to all the people. They have fully proved his ability to serve them.

Now it is fair that imagination should have full play, as to all the facts which exist, and every effort of eloquence may be exercised to convince us, that upon those facts he is not eligible—But this grave assembly ought not to permit itself to follow the most brilliant illusions further—When a British subject is palmed upon us as a delegate, it will be sufficient for us then to settle his admissibility into our counsels.

After a few observations from Judge Thacher, the vote was taken on his resolution, and decided in the affirmative.

During the debate on Mr. Vance's election, Judge Parris, from the committee on the constitution, came in and informed the Convention, that he had been sent by the committee to inform them that the committee expected to be able to make their report this afternoon at 5 o'clock. This suggestion was made lest the Hon. body should adjourn to Monday. Adjourned to this afternoon.

Afternoon.—Mr. Virgin, moved that the vote passed this forenoon admitting Wm. Vance, Esq. returned as a delegate from the town of Calais to this Convention, be reconsidered. The debate on this subject occupied the afternoon until adjournment, in which Mr. Virgin, Judge Thacher, and Judge Coney took part; the arguments used in the forenoon were reiterated and enforced. Much interest was excited and after an animated discussion it was decided not to reconsider the vote—49 rising in the affirmative and 106 in the negative.

A communication was received from the committee on the constitution, stating that they were prevented from making their report, as they had informed the Convention in the forenoon, during the session of this afternoon; but asked leave to have it printed, as they should complete it by evening, for the use of the members. It was accordingly *Resolved*, that the committee be authorised to cause 500 copies of their report to be printed for the use of the Convention.

Mr. Wood, was requested to convey this resolution to the committee.

Adjourned to Monday 10 o'clock.

MONDAY, OCTOBER 18.

No business (excepting in relation to the returns of one or two members, which passed *sub silentio*) came before the Convention, until the hour of *twelve*, when the President called their attention to the Declaration of Rights, for the consideration of which that time had been assigned.

Judge Thacher observed, it was a subject of primary importance, and it was very desirable that the chairman and members of the committee, for framing the constitution, should be present, when it was discussed; which would probably be the case, in the afternoon. He therefore, hoped the subject would not be taken up till then.

Judge Ames concurred. The committee, said he, are the ears and eyes of the Convention. The Bill of Rights requires much explanation, and it would be a mere waste of time to take it up in their absence. He also observed, that the chairman of that committee had expressed a wish, that it should be deferred until his appearance.

Information was then received from the committee, that they would probably report a Constitution at 3 o'clock in the afternoon, upon which the convention

Adjourned.

Afternoon — RESOLVED, that Henry Smith, Esq. of Portland, be appointed and he is hereby authorised to draw on the Treasurer of the Commonwealth of Massachusetts, to the full amount of the money paid into the Treasury by the several Banks within this District, for the tax upon the same, due and payable the first Monday of the present month, agreeably to the authority vested in this Convention, by an Act of the Legislature of said Commonwealth passed June 19, entitled "An Act relating to the Separation of the District of Maine from Massachusetts proper, and forming the same into a separate and independent State;" as the amount of the Pay Roll of this Convention will exceed the amount of the tax on the Banks due and payable as aforesaid.

REPORT OF THE COMMITTEE.

IN COMMITTEE. PORTLAND, OCT. 18.

The Committee to whom was referred the subject of a Con-

stitution for Maine, have attended to that subject, and ask leave to Report.

J. HOLMES, Chairman.

[Here follows the remainder of the Constitution, which it is inexpedient to insert entire, as the material alterations will appear in the course of the proceedings.]

After reading the Report, the Chairman observed, that since the copies ordered to be printed were struck off, the committee had made some alterations and additions, which he now moved should be printed : which was agreed to.

On motion of the Hon. Chairman, it was *Voted*, that to-morrow at 10 o'clock, be assigned for taking the report into consideration.

The Convention then went into the consideration of the first part of the report, consisting of the Declaration of Rights, which was read, debated, and accepted, section by section.

The preamble as reported, began, "*We the people of that part of Massachusetts denominated the District of Maine, &c.*" On motion of Mr. Holmes, it was amended, by striking out the words in *italicks*.

Judge Thacher, then observed, that the word Maine was not alone sufficient to designate the territory of the State. The Laws of the United States have determined what shall be the territory of the District of Maine. But the original name of *Maine*, included only the territory between the Piscataqua and the Kennebeck rivers, and was not sufficiently definite.

Mr. Holmes replied, that the words stricken out were unnecessary ; that since the charter of William and Mary, the territory has been known as Maine, as far as the St. Croix, and comprehended at the present time all that the District of Maine ever did, and that he did not wish any longer to retain the appellation of *District*.

A question of order arose, and Judge Thacher gave notice that he should move for a re-consideration to-morrow.

Some slight correction was also made in the phraseology of the preamble, and Mr. Holmes then moved that the blank which was left for the style and title, should be filled with "*State of Maine*" agreeably to a former vote of the Convention.

Mr. Whitman, rose and begged the indulgence of the Convention a few moments, while he improved the only opportunity he had yet enjoyed, in consequence of having before been engaged on the committee, to enter his dissent to the name

now suggested. The name, said he, is quite familiarized with us, but it is not abroad.

There is a name which I would suggest, and if the present motion does not prevail, shall move to fill the blank with it. It is a name which is derived from a territory once comprehending a considerable part of Maine ; it is therefore not a new or arbitrary term, but is appropriate, well sounding and respectable, it is *Ligonis*. He hoped the blank would be filled with that name and title, as preferable to Maine.

Judge Bridge, observed that the committee on the constitution did not think it belonged to them to discuss the subject, but only adopted a name provisionally, and not with the design to interfere with the duties of another committee.

Judge Greene. I think the gentleman from Portland, entirely out of order. A committee had this subject before them and on their report, after a discussion of nearly a day, and after notice was given that a large part of the committee were present, decided ; and it is now too late to resume the consideration. If any thing has been done by this Convention, it has settled this question.

Mr. Holmes, made some further remarks in support of his motion. The blank was then ordered to be filled with the style and title of the " State of Maine.

Mr. Holmes, said he was about to move for the insertion of a name which excited ridicule in none but an atheist. He would therefore move, to amend the report, by striking out the words " *Great Legislator of the Universe,*" &c. and insert those of " *Sovereign Ruler.*"

Judge Thacher, preferred the words Almighty God or Jehovah.

Mr. Holmes, thought there was great propriety when forming rules for the government of the people, that we should acknowledge our subjection to the Sovereign Ruler of the Universe : and the vote being taken, the motion was decided in the affirmative.

The question, shall the Preamble as amended be accepted ? passed in the affirmative without a division.

The first and second sections of the Bill of Rights were then severally read and passed without amendment.

On the 3d section being read, Mr. Holmes observed, it was an important subject, and perhaps at that late hour, gentlemen were not prepared to enter on the discussion, and therefore moved an adjournment ; whereupon the Convention Adjourned.

TUESDAY, OCTOBER 19.

A memorial was presented to the Convention from a committee of the "Catholics of Maine," stating that under the Constitution of Massachusetts they were excluded from an equal participation of the benefits of government, and praying that by the new constitution, they might be admitted to an equality of religious and civil rights and immunities.

Judge Parris, remarked that the object of the memorialists, would doubtless be secured to them by the Bill of Rights, if adopted as reported, and moved that the petition lie on the table.

Judge Thacher, observed, he fully approved of the general sentiments of the petition, and hoped all religious distinctions would now be done away, and no more be made objections to political arrangements of the government. We are all children of the same God, in Heaven; and he has proclaimed himself Our Father. Whatever sects or denominations we may have divided ourselves into; and however we may through prejudice think ours is the favoured of Heaven—nevertheless we are all equal in our rights, and equally dear to our Father, if we obey his laws. He trusted no distinction or pre eminence would ever be given to any religious sect, as such; whether Catholics, Jews or Mahometans—The liberal principles of our government ought to make no difference between them; so far as we look to the investigation of truth by the force and effect of an oath, there is no ground for the exclusion of either of these great divisions. Does a court of justice rest satisfied when a christian calls God to witness the truth of his testimony? and does not the descendents of Abraham call the God of Abraham, Isaac and Jacob to be present, while they depose, and is he not also the GOD AND FATHER of our Lord Jesus Christ, by whom christians swear? The Mahometans in their most solemn transactions, speak in the name of the MOST MERCIFUL GOD, who is the Jehovah of Jews and christians. The Hindoos too, were there any in this country, would be intitled to give testimony in our courts of justice, tho' they were to call upon Juggernaut himself, as the God they feared—And according to the accounts lately given us by travellers, none is more feared, or more terrible to the imagination of devotees.

Ordered, That the petition of the Catholics, lie on the table.

The consideration of the Declaration of Rights, was then resumed.

The 3d section being read, Judge Thacher moved, to amend it in the first and second lines, in the following manner—"As it is the absolute duty of all men to worship God their creator, so it is their natural right to worship him in such way and manner as their conscience dictates, to be agreeable to his revealed will"—And in support of which amendment, he said, it was substantially the same as is contained in the Declaration of Rights in the constitution we have lived under for forty years; and he had never seen or heard of a person who denied the truth contained in the amendment, or even in theory or speculation attempted to call in question its propriety. He presumed every member of the Convention was ready to make the acknowledgement; and if called upon individually to express their sentiments, he had no doubt, but they would all agree to declare, that every rational creature, having in their hands such a revelation from Heaven, as we have in the Bible, is under the highest obligation to make some expression of his sense of duty by way of worship.—He thought it was not enough to say, it is the natural and unalienable right to worship Almighty God—Because it might be said, that as men might remit certain rights introduced for their own benefit, so they might, omit, if they did not give up this right.—And he hoped none of the Convention wished to secure to themselves, or any body of people, *the right not to worship at all*, as well as the *right to worship according to the dictates of conscience as often as they saw fit to worship*—It being a universal duty, what could a rational being wish for more than to discharge the duty in some mode or other, and having freely elected that mode to have it secured to him against all interference of others.

He endeavoured to illustrate his meaning, by saying 'here are various denominations of christians in this and every country throughout christendom, viz : Catholics, Episcopalians, Congregationalists, Presbyterians, Baptists, Methodists, Universalists, &c.—and several of these are again subdivided into sects, where they make it a point of conscience, not to comply wholly with each others mode of worship in form, or in doctrine. But why cannot they be each contented and satisfied when he have made his choice, and selected the sect his conscience will permit him to associate with, to suffer a general law to enforce him to do that which he and every body else acknowledge to be a duty; and he says, his conscience, in the particular case, is satisfied with?—When any number of men

have declared themselves to be Baptists and associated for public worship, and agreed upon the mode, what inquiry can arise to any one, for the law to say, *you shall now worship in the mode you say is agreeable to your conscience?* The same mode of reasoning is equally applicable to each division and sub-division. He concluded by saying he saw no objection to this course of reasoning, but to say, that the meaning of the phrase, "*right to worship God according to each man's conscience, really and truly meant, to worship, or not to worship as he pleases.*"

Dr. Rose, of Boothbay, said, he hoped the motion would not prevail. The delegates came here, said he, to establish a declaration of rights, and not a prescription of duties. He thought the amendment, therefore, a deviation from the purpose and object of the article, which was not to point out to the citizens their moral and religious obligations, but by a plain and explicit statement, to instruct them in their civil rights and regulate their political privileges.

Mr. Herrick, of Bowdoinham, observed, he had no objection to declare it to be the duty of man to worship God; but he would by no means clothe the Legislature with authority to enforce, by penalties, the performance of that duty. He thought there was a provision in the constitution, that the Legislature should pass no laws repugnant to the constitution of the United States, which secured the free exercise of religion. But he was apprehensive that if the Convention should go so far, as to insert in the constitution a declaration, that it is a duty to worship God, the Legislature might hereafter attempt, by penal laws, to compel the performance of that duty. It might be argued hereafter, that if the people solemnly declared the duty, an obligation was imposed on the Legislature to see that the duty was performed, and performed in a proper manner. He would not give a colourable pretext for legislating on this subject. Religion is in its nature personal, it is a quality of the heart and not subject to human laws, which by their severe penalties commonly make hypocrites and bigots.

Judge Thacher said, he thought the declaration did not amount to an enforcement of the mode of performing that duty—that was left to the dictates of our own consciences. But he conceived the right itself to be founded on a duty, and he was of opinion, we ought to insert in the Constitution, an acknowledgment of our duty to worship God.

Mr. Holmes. Mr. President—I rise to explain the reasons

that induced the Committee to adopt the article as it is. I, for one, do not think it is for me to express my own opinion of *duty* in a declaration of *rights*. To make it a *duty* to exercise a *right* is preposterous. Individually, I believe it my duty to worship God *publicly* and at stated seasons. But I am not sure but he who believes it his duty to worship him in *private* only, is equally right. It would be difficult, perhaps, to prove incontestibly, that *public worship* was any where *expressly* enjoined in scripture. There may be very conscientious people, who would insist, with pretty good authority too, that all public worship was pharisaical, and that man to commune, properly, with his Maker, should enter into his closet, and not until he had *shut the door*, was he to pray to his Father *in secret*.

Worship is the *voluntary* offering of the fruit of the heart to a Deity. The moment it becomes *involuntary*, it ceases to be worship.

This was the most difficult subject we had to encounter. We concluded, at length, to declare the people's rights of conscience, without attempting to define their religious duties. If we introduced into the declaration our duty, we might more ; we may incorporate a whole body of ethics. It is a subject of extreme delicacy. To prescribe the duty, would be to authorise the Legislature to enforce it. This would excite jealousy and alarm. The worship of God is, and ought to be free. Religious oppression brought our fathers to this country, and their descendants will not fail to resist it.

The motion for the amendment was lost by a great majority.

Mr. Stevens, of China, moved an amendment to this section, which was, after the words " or obstruct others in their religious worship," to insert, " nevertheless, every sect or denomination of christians ought to observe the Sabbath, or Lord's day, and keep up some sort of religious worship, which to them shall seem most agreeable to the revealed will of God." He thought it decorous and proper for the Constitution to express a solemn opinion on this subject, not for the purpose of compelling the observance of the duty by penal laws. He strongly disclaimed any such wish, and deprecated the attempt as much as any man could do. But without furnishing a pretext for legislation, he thought the example of the Convention would, as it ought, carry great weight with it.

Mr. Holmes. Mr. President—I regret we had not the services of the gentleman on the Committee. I think, if he had

heard the objections and arguments, he would not have offered his proposition. The legislature have, no doubt, the right to set apart one day in seven, as a day of rest—to select the day, and to prohibit therein labor or recreation. This comes within the scope of their general powers. But they have no right to prescribe this as a day of *worship*, to one who believes that another day is the proper Sabbath. There are those who still think that the *seventh* day of the week is the true Sabbath; and it might, perhaps, be difficult to show, to the satisfaction of those people, any positive command to substitute the *first* for the *seventh*. The propriety of appropriating the seventh day, was only an inference from the practice of the primitive church, and it would be hard on those, who felt bound by their consciences to observe the seventh day, to compel them in addition to observe the first, by the penalties of law. Others again think secret worship is a duty, and not public worship, which they condemn as ostentatious and pharisaical.

Judge Thacher inquired, whether the article does not include, not only all denominations of christians, but all religionists? If that be the case, where would be the impropriety of adopting this amendment? He hoped it would be adopted. We are in no danger from Sabbath laws; if opposed to the sentiments of the people, they will set them at defiance.

The motion was negatived.

Mr. Emery of Portland. Mr. President, having heard many gentlemen declare it to be a duty, individually to worship God, but that they feared to give the power to the Legislature to enforce the right, I feel a diffidence in introducing an amendment, which may have that appearance. I will, however, beg leave to submit an amendment, which is, to strike out the word "worship," and insert "exercise the duty of worshipping." The section will then read, "all men have a natural and unalienable right to exercise the duty of worshipping Almighty God," &c. I cannot think this an infringement of the rights of conscience. It seems to me, to steer clear of the objections that have been made to the amendments which have been offered before. The duty will be recognized, but the power of enforcing it by penalties, will not be conceded. If there is any member of this Convention, who does not think he or his constituents ought to exercise the duty, then he may avow it; and I wish to have the sense of the Convention on the subject.

Mr. Holmes. I fear, Sir, I may be considered obtrusive,

and must apologize for appearing so frequently. But I feel obliged to explain and defend the principles adopted by the Committee. I would not be strenuous in preserving the phraseology of the report, but if the amendment does not change the meaning, it is unnecessary. If it does, it amounts to the same as the propositions which have been just rejected. We are in this article to consider the rights, and not the duties, of the people. A *right* to exercise a *duty* seems inconsistent. A right is a privilege, a duty is an obligation. A right to perform a duty, is a privilege to be subjected to an obligation. It imports a contradiction in itself. If you mean the duty is to be performed in a particular way, then you prescribe the mode of performance, which we have no right to do.

Judge Green. Mr. President—I hope the amendment will prevail. I am constrained to say, I am not satisfied with the article as reported. Before making some remarks, which I shall offer on this subject, however, I desire it may be distinctly understood, that I have no hostility to liberty of conscience. On the contrary, I have declared before, and I will now declare, that no denomination of christians, ought to have exclusive privileges secured to them by law. I think a government ought to treat them all as equally meritorious and deserving. I am the ~~last~~ man that would surrender the right of worshipping God according to the dictates of my own conscience. All men have the right to worship God, but I think this duty ought to be distinctly avowed. And it is incumbent upon all men, upon all proper occasions, by every imposing word and act, to inculcate upon others the worship of Deity. And to declare on this occasion and in this instrument, which I trust is to be perpetual, that it is the duty of man to worship his Creator, can do no harm—it certainly may do good. To omit to do this, would show too great an indifference, on the most important of all subjects. Does not the article stand unguarded, as it is now expressed? Are we at liberty to exercise that duty or not? This article may be considered as exempting man from the performance of this duty. I do not believe that this assembly, so august—convened to discharge the most important duties that can be performed, can leave it to be said by implication, that I have the right to dispense with the performance of this duty, and neglect to discharge the obligation. Do not let us say, men may be excused from the performance of this duty at all. I do not think we have a right to say how men shall wor-

ship ; that they shall worship in this temple or that—at Jerusalem or on Mount Gerizim. But it is incumbent on us, by every solemn obligation, to recommend to our constituents and to posterity, the worship of God in public or private. It is as much right that we should worship in some way, as it is that we should be left free to worship in our own way ; and in asserting too zealously the latter, I hope we shall not lose sight of the former. If it be safe to say a man may neglect to worship God, you may say with equal safety, he may deny him. And what, Sir, is man without religion ? Ourselves, our property and reputation, are not safe without it. Destroy religion, and you impair the obligation of an oath. I am sensible religion exists no where, but between a man's conscience and his God. But it must exist somewhere—it is our duty to encourage it every where—it is the best security of man. And, Sir, I do hope this Convention will not hesitate to declare in a body, what I believe is the settled conviction of every member, that it is the duty of man to worship his Creator.

Mr. Locke, of Chesterville. Mr. President—I consider this a solemn and important subject, and one on which I must express my opinion, which is very different from that of the Hon. gentleman last up. He, Sir, has not made the proper distinction between right and duty. I consider, Sir, that I have a right to attend at a catholic meeting, but it is not my duty to do it. We have a right to do many other things which are not duties. It is not the duty of any one to attend public worship, where he cannot do it agreeably to the dictates of his own conscience. We ought not to be obliged to perform the duty of worshipping God by legislative power. The Legislature is departing from its proper sphere, when it undertakes to regulate the intercourse between man and his Maker. Religion being seated in the heart, cannot in its own nature be cognizable by human laws. And if we appeal to history, we shall find little encouragement for legislating on this subject. Pure religion always flourishes most, when it is left most free

Mr. Wilson, of Bingham, expressed himself in favor of religious freedom, and in opposition to the motion.

Judge Thatcher observed, that he thought no member needed to make any apology for bringing forward a motion either *original*, or to *amend* a proposition before the Convention. What reason was there for members to apologize for doing that which

they came here to do? We were sent here to form a Constitution, and it is the right, by the rules of our body, to speak twice on every subject brought before us; and it is the duty of each member to lend his whole attention to the speaker. Surely the gentleman from Alfred needs no apology for frequently addressing the Convention. It is almost necessary for him to be always on the floor. As chairman of the committee, who reported the form of Government now under discussion, he becomes their organ to express their sense, and explain all its parts to the inquiring members. Discussion is the proper mode to gain information; and there is no danger of being charged with unnecessary delay in our proceedings. Our constituents do not expect us to devise, discuss and conclude on a Constitution in a week or fortnight. We came together as strangers to each other, and unacquainted with one another's opinions. The territory we represent is very extensive, and consequently the members of the Convention must have time and opportunity to know the situation and circumstances of the various districts, and opinions, and then to combine and arrange them into some common principle and ground of action. He said he had no fear of being censured on account of expense, provided we finally agreed on a good Constitution.

As to the amendment offered by the member from Portland, he said he was disposed to favor it;—and though he had before been unsuccessful in one of the same general nature, yet as this had been explained by the mover, he hoped it would be adopted. The former amendment was opposed on the ground that it was feared the Legislature, under that amendment, might aid a religious society in collecting a tax laid by a majority of its members, which the Convention seemed to think might some how or other terminate in a religious tyranny and oppression; whereas this amendment goes only to recognize the *duty of worshipping God*, but not to enforce it by aid of the civil authority, or to prescribe the manner of its exercise. It secures to every one *his own mode of performing what every one acknowledges to be a paramount duty to all others*. It is a duty to pay a debt, and there may be various ways of discharging it; and the law that secures to the debtor any one of these various modes he shall elect to pay it in, one would think a very beneficial law to all debtors. This illustrates our *duty to worship*, or the true relation we stand in to God, our Creator and Governor; and the amendment is intended not to enforce the discharge but to protect each

worshipper to discharge the duty according to the dictates of his conscience.

Gen. Chandler was opposed to the motion. I consider it my duty, said he, to worship God ; but there is a difference between religious duties, and political duties. One may be a proper subject of legislation, and not the other. We were not sent here to prescribe the religious duties, but to determine the rights of the people. This is a religious duty, but not in my opinion a political duty. I believe it is better to have the article stand as it is. The only objection to the amendment however is, that it may be thought to authorise the Legislature to enforce the observance of the duty by penalties, which would be an infringement of our rights.

Mr. Usher, of Hollis, said he hoped the amendment would be made in such a manner as to enforce the duty and also secure the rights of conscience. While the people are protected in their rights, we should guard against their licentiousness. He could see no reason why every one should not be required to contribute, in some way, to the support of religion and the worship of Almighty God.

Dr. Thayer, of Fairfield, hoped the article would not be amended. It secures to us the important right of religious freedom ; and we may learn our moral and religious duties from another source. If men will not learn them from the Bible, they will learn them no where. If we go further, we may make hypocrites, but not christians.

Judge Thacher wished to make this article so as to acknowledge the *duty*, as well as the *right*.

Mr. Emery. I have not indulged the belief, that the chairman of the committee had any partiality, or pride of opinion, in regard to the phraseology of the report. I believe, if the alteration is made, there will be no collision about it, among our constituents. When we only assert, what they all have learnt from a higher source, in their early pupilage—when we express the deep sense of the assembly of their delegates, of their obligations to God—it cannot be calculated to make them hypocrites. And I do hope we shall, by the most perspicuous and suitable language, express our duties as well as our rights.

I fear, Sir, some misunderstanding exists respecting the effect of this amendment. It will lead to none of the consequences that are apprehended. I cannot see the possibility of a chance, that the Legislature will exercise a power, that will endanger

the security of the persons, or liberty of the people, or abridge, or contract the rights of any sect or individual. I beg that this assembly will not be terrified by any imaginary evil, that can arise from adopting this amendment. It is only a naked acknowledgment of the duty, and implies nothing more than is said.

Mr. Holmes. Mr. President—I have not been able to satisfy myself, from the arguments of the gentlemen, that any good would arise from the amendment. The article is very important. But I do not know that we are to prescribe duties to our constituents. This amendment may impose an obligation on the Legislature to compel the performance of this duty. I do not believe religion is in danger from liberality. I trust it has better props, than any this Convention can establish. The people will tell you they know their duties, and that they sent us here to guard their civil rights, but not to instruct them in the precepts of religion. This article is like charity itself: it hopes all things, it believes all things; it is without partiality, and void of hypocrisy.

The question was then taken on the motion to amend, and it was lost by a large majority.

Mr. Whitman rose to address the chair. He commenced by observing, that this article in the Bill of Rights as far as it went was very well—but that it was wholly of a negative character. We have (said he) very properly guarded against the undue exercise of power; and have determined what the Legislature shall not do—but we have not said what they shall, or may do. While we prevent their doing harm, we should at the same time provide for their doing all the good that may be possible.

Religion is, to be sure, a matter between a man and his maker. But if it be valuable in the highest degree; in its effects upon the community, as every one must admit that it is, we ought to take care as far as may be consistent with the rights of individuals, to cherish it, and derive from it every possible advantage. All government is in a manner founded upon religion—it constitutes the basis of social order. If we have a government of any value to the people, yet if we have not a moral people, if corruption get into your legislative or executive departments, anarchy must follow. Now then can we so well promote good morals, as by religious instructions? Religion is what has ever distinguished us as a people. The superiority of our institutions, particularly in New England, over those of other nations, is principally to be ascribed to the religious character of

the people. While then, on the one hand, we guard against oppression and secure to individuals the enjoyment of their rights, on the other we should not tie the hands of the Legislature, in such a manner as to prevent their doing any thing to uphold religious institutions, which inculcate good morals and cherish religious principles. By this bill, the Legislature have no power to make provisions for its support. Can they have this power without endangering religious freedom? I think they can, Sir. By the article, as it now stands, no power is given to make donations; or to incorporate Trustees for the management of funds, or donations, made by individuals. Whether such a power would result from any construction which might be given of it, is at least doubtful. We have now many religious corporations that have from time to time been endowed; and shall we not have the power to protect these endowments, and to extend this patronage, as the public interest may require? This would not endanger religious freedom; it would be a salutary power, and not liable to abuse.

Sir, the people of this country are jealous of their liberties; but this jealousy, laudable within certain limits, may be carried to a pernicious extreme; and this is the case, when, from apprehension of danger to their freedom, they withhold such powers from their rulers. Our real security, in this particular, lies in the frequency of our elections. While the frequency and purity of elections continues, I feel no apprehension for the security of the liberties of our country.

There are various things which might be done for the encouragement and upholding of religion and religious institutions, which would, in no wise, affect the rights of conscience. These the Legislature ought, not only to have power, but it should be their duty to do. I would therefore beg leave to propose the following amendment:—

“As the happiness of a people and the good order and preservation of civil government especially depend upon piety, religion and morality; and as these cannot, generally, be diffused but by the institutions of the public worship of God, and of public instructions in piety, religion and morality—Therefore, to promote their happiness, and to secure good order, and the preservation of their government, the Legislature shall have power, and are hereby authorised, by all suitable means, to encourage and support the institutions of public worship, and of public instruction in the principles of piety, religion and morality.”

Gen. Chandler thought the amendment unnecessary, as all the powers the gentleman contended for, he thought, were contained in another part of the constitution, reported by the committee.

Judge Parris. I was not disposed to speak on the third section, and did not expect there would have been one word of debate on the subject. But I am opposed to some of the principles of this amendment. It is well known, Sir, that the people are divided into different religious sects. Some one may hereafter become predominant, and I am opposed to trusting them with the power of putting their hands into the public chest, and appropriating to the exclusive benefit of their own sect, the funds of the State. Such things may happen, Sir, and the parties will plead this article in their defence; they will say it is appropriating money for the support of religion, and they will undoubtedly think it "*suitable*," that their own sect should have the preference. The word *suitable* is of the most extensive import, sufficiently so, to cover any means that any Legislature may adopt, as they, and they alone, are constituted the judges of what is suitable. I am not disposed to trust men too far. A written constitution has its origin in a salutary jealousy of power, and the very object of it is to define the otherwise indefinite and unlimited powers of government.

Mr. Holmes. Mr. President—I did expect, from the arguments of the gentleman, a very different proposition from the one laid on the table.

The arguments were on the propriety of authorising a confirmation of grants or donations already made. But how different is the one offered! The Legislature shall have the power, and are hereby authorised, *by all suitable means*, to manage and uphold the institutions of public worship. Sir, I will never consent, on any consideration, to put any restraints upon conscience. Religion needs no aid from government. I tremble when I think of the fatal effects, which have resulted from the interference of the civil authority in matters of religion. *Power* is a dangerous word in religion. I tremble at its influence, when exercised in connection with the passions of men. Rivers of blood have flowed from religious intolerance, when aided by *power*. Adopt the amendment, and what prevents the institution of inquisitorial power? The Legislature might consider the establishment of one sect, to the exclusion of all others, as "the most suitable means." On this subject, Sir, it is the bu-

business of the Convention to restrain, not to give power. Man is ever in love with power. Give him power, and he will be inclined to forget right. Let us take care how we trust fallible man. Experience proves that he is often *weak*, and sometimes *wicked*. I hope that a principle so dangerous, so destructive to religious liberty, will not prevail. Give your Legislature a power to *uphold* religion, and trust to their discretion for the *suitable means*, and you arm them with a weapon which might prostrate in the dust, your religious liberties. It is the same power, which in other countries, and other times, has sanctioned the most inveterate and cruel persecutions. By its aid, brothers have assassinated brothers, and parents have seen their children expire in torture at the stake. Louis XIV. thought the revocation of the edict of Nantz, "*suitable means*." A confessor whispered in his ear that religion was in danger, and he thought the safety of the church was in danger—and he thought that the safety of the church was cheaply purchased, by the death or exile of half a million of his most useful and industrious subjects. Every mode by which men could harass, torture and destroy one another, have been thought suitable means. It does not satisfy my mind to be told merrily, that neither we nor our posterity shall probably abuse this power; and this is all that can be promised. I would not give the power, and then only can we be sure it will not be abused. Before we adopt this proposition, let us hesitate—let us pause!

Judge Thacher observed, that if he had just taken his seat in the Convention and had not heard the amendment read from the chair, but was left to collect the subject before the Convention from the speeches of the gentlemen, he should have concluded from the high colouring, the animated countenances, and the pathetic appeals to the passions displayed on the occasion, that some fair widow had within a few days been consecrated on the funeral pile of a deceased husband, and that John Rogers with all his family and the infant itself in the arms of his mother were then writhing in flames at the very door of the house. Indeed in the midst of so much *agony* and *tragedy*, he thought he could see the smoke of faggots filling the hall. [Here the President suggested to the speaker, that he doubted whether he was in order.] The Judge continued, that he thought if the gentlemen had given them a little more logic, with less eloquence and pathos, it would have had a more rational effect. In these days of enlightened wisdom he did not believe there was

any danger of the perpetration of the barbarities and cruelties that have been so feelingly described. He saw no reason why the Legislature might not be authorised to assist the societies mentioned in the proposed amendment, and he hoped it would prevail ; for he thought it a salutary provision to preserve our existing wholesome institutions, and also to increase their good effects.

Judge Parris. Mr. President, from the explanation given by the mover of this amendment, I think it needs no power of eloquence, or any argument of reason, to point out the odious consequences which may follow, if it is adopted. If I understand the object of the provision, it is to give the Legislature the power of endowing religious institutions. Sir, I do not believe the people are prepared to give them this power. I am for restraining the Legislature ; I am not for empowering any sect to thrust their hands into the public Treasury and take the public property to endow their religious institutions. As far as I can go with the gentleman, to support the cause of religious principles, and leave the conscience free, so far I am with him. But I see the dangerous tendencies of the exercise of this power ; and cannot consent to give it to them.

Mr. Whitman. Mr. President—I could not have believed that the amendment I proposed would have excited such fears. I did not imagine it could possibly be so tortured as to frighten gentlemen out of their wits. I could not perceive that such danger would have arisen from it, or that it was fraught with the evils imagined, or I would immediately withdraw it.

The amendment was but a transcript from the Bill of Rights of Massachusetts, under which we had lived, in perfect security, for nearly forty years—and it was without any of the obnoxious provisions which accompanied it in that Bill of Rights. It is without the provision that every person shall be obliged to attend on some religious instruction, and to pay somewhere for it ; or to compel towns and parishes to support religious instruction. We have (said Mr. W.) already adopted every safeguard against oppression. We have provided that there shall be no preference of one sect to another ; and have secured religious freedom in its fullest extent ; and there we are to stop. Religion is certainly not only valuable in itself as it respects the prospects of our future welfare, but it is conducive to the best interests of civil society. *The government which is best administered is best :* and government cannot be well administered

where the morals of the people, and their rulers are corrupt : and in what way can we be sure of good morals without the aid of religion ? It not only inculcates the best of principles, but rivets them upon the mind. It is the duty therefore of civil government, to adopt the best means for the preservation of the morals of the people. We all know the effects of a virtuous education. We have all experienced the utility of public religious instruction. The early instructions we receive in private and in public sink deep in the youthful mind ; and grow with their growth and strengthen with their strength. If then, morals depend on religion, and the support of civil government upon morals, is it not the duty of every government, by all suitable means, to *uphold* and *encourage* the institutions for public instruction in the principles of religion ? What would be the situation of any government without religion ? How much depends on the obligations of an oath ? What, but for this, would be the situation of our tribunals of Justice ? Without this sanction they would be but engines of oppression. Shall civil government then, the administration of which has its basis in religion, refuse to it the aid of its encouragement ? Will you tie the hands of your Legislature, and deprive it of all power to promote your best good ?

The alarms of my colleague, continued Mr. W. are groundless. I am astonished that he should not discern what will be the import of this article should this amendment be adopted. No single provision taken by itself, and disconnected with every other, but may be distorted, and made what, if taken in connection with the residue, it would not mean. Let this amendment be adopted, and the possibility of an undue exercise of power will, by the provisions already adopted, be so guarded that this amendment will but furnish a salutary power, which ought to be lodged somewhere. Pious donations may be made to societies and acts of incorporation of Trustees for their management may be necessary : without which the benevolent intention of the donors cannot be carried into effect. And shall your Legislature afford them no aid ? And is it intended that the Legislature shall never aid in the cause of religion, for fear it will abuse the power ?

The argument of the gentleman from Alfred (Mr. Holmes) would go to the destruction of all power in any body of men whatever. There is no power but may be abused. Yet we are about to entrust our Legislature with our lives and fortunes. It may create offences and annex penalties in any number and

to any degree: And, yet, you cannot entrust it with *power to encourage and uphold religion!* a power which never has been abused under the constitution of Massachusetts; and which we may safely calculate will never be abused under our own. Are we growing less enlightened and less liberal? Can we doubt that our legislators—men of our own choosing—who must be subject to the laws they make—who are to be elected for short periods and are then to return to the mass of the people—can we doubt that the power to encourage and uphold the institutions for public instruction would be safe in such hands?

Mr. W. said he believed he had never been suspected or accused of religious bigotry or intolerance—that from experience and observation, he had been made to believe the support of any sect or denomination of christians, seriously believed to be such, would be preferable to the support of no religion. He would therefore cheerfully afford them *all* equal encouragement and support. Although religion, as it respects individuals, may be a question between man and his maker, civil society, nevertheless, as such, may and ought to derive from it every possible advantage, consistent with the rights of conscience. With this view, if with no other, it is the first duty of every government to encourage, uphold and maintain it. Mr. W. hoped, therefore, that an amendment so innocent, and intended to confer a power so desirable, encircled as it would be by so many barriers against an abuse of it, would not be refused to this constitution.

There have indeed been complaints of the exercise of this power by the Legislature of Massachusetts, in granting lands to the first religious society in new towns. This has generally given those lands to Congregationalists, but it was an adventitious circumstance, from their having been the first religious society in the towns. But when any other sect, as the baptists, have been the first society, they have had the benefit of this provision.

Judge Thacher. He could not see the danger so much apprehended by some gentlemen.—He confessed he feared none of them—they were to him merely imaginary. As far as he could understand the grounds of the evils so much deprecated, they seemed to be founded on *a general idea that the moral and political worlds were retrograde on the scale of improvement, and that man was growing worse and worse.* This was not his creed.—Neither the history he had read, or his own observation for more than fifty years, gave any countenance to such notions.

He doubted whether any Legislature would be convened under this Constitution for a century to come, or during the existence of the Constitution, that would be less disposed to consult, and act for the common welfare than this Convention now are; and he would declare to them individually that he had a very strong persuasion of their good intentions to save the public. We did not distrust ourselves; why then shall we distrust our future legislators, in those things, of which their future situation will probably enable them to form a more correct estimate than we can now do? Let us look back in the old nations for five hundred years;—to the invention of printing and the commercial uses of the magnet;—do we not find a gradual improvement in every thing pertaining to the happiness of society, and I might almost say to the actual amelioration of the *nature of man* himself? In how many instances do we see laws, made to prevent crimes repealed or become entirely obsolete, because the moral state of society has rendered it impossible for the crimes to exist? Are we not improving from year to year, and are not our laws more and more adapted to the free exercise of all the natural rights of man and particularly so as to religious rights? As evidence of this, he referred gentlemen to a candid review and comparison of the ancient colonial, provincial and the Commonwealth system of laws.

The vote was then taken on accepting Mr. Whitman's amendment, and it was decided in the negative.

Mr. Hobbs, of Berwick, said he had it in his mind to move to have the last part of the section stricken out; but as gentlemen seemed disposed to retain it as it is, he would wish to have an addition made to it; and moved that the following amendment be adopted, viz.: "Nor shall any one ever be obliged to pay any tax, or rate for the building, or repairing any meeting-house or place of worship, contrary to his own voluntary engagement."

Mr. Holmes. The committee had this subject under consideration. But we concluded it would be going too far. To say that a man should not be compelled to aid in building a house of worship unless he had given his consent, would be to destroy all corporate powers. Shall a man lay by, and if the place or construction of the building does not exactly suit him, be exempt because he did not vote? Most surely this man ought to be bound by all the lawful acts of the corporation, so long as he continues a member.

The motion was negatived.

The question was then taken on adopting the third section, as amended, and it passed in the affirmative. Adjourned.

AFTERNOON.—The 4th section was taken up.

Mr. Holmes moved to amend the concluding clause, which read "*in all indictments for libels, the Jury shall have a right to determine the law and the fact under the direction of the court,*" so as to read "*the Jury, after having received the direction of the court, shall have a right to determine, at their discretion, the law and the fact.*"

Judge Thacher said, he did not know whether he had any feelings on this subject that amounted to a predeliction for the amendment, or the article as reported. He could not see how it could be a question of much importance whether the jury decided before or after the charge, if their finding was to settle the law. In all cases the jury give such a verdict as they please; but if, on a correct statement of the evidence by the court, it appears their verdict is contrary to the law of the land, the court set aside the verdict and put the cause to a new trial. This right of the court has been acknowledged in England from the earliest history of the law, and in this country from its first settlement. He said he saw no good reason for making a distinction between actions or indictments for libels, and other causes of actions and other crimes. He said his experience did not warrant a conclusion that it was a case of sufficient importance to engage the attention of the Convention. When at the bar he had been engaged in a few causes of libels; and had been on the bench when one or two indictments for libels were tried; they were cases of no great importance; nor did he see any thing in their natures that ought to excite more feeling and interest than other causes of action of the same value in point of property. When at the bar he argued them as he did other causes; and on the bench he felt no otherwise than he did on other trials; he endeavoured to decide on the admission of evidence as he did in other causes, according to the general rules of evidence, and in summing up to the jury, he felt the same disposition to be impartial as in all other cases. It was a fact, some people were apt to work themselves up to a fever heat in causes that rarely happen, be the subject in dispute of great or small value in point of property; but he saw no reason for making any constitutional provision on the general subject of libels, rather than any other—He thought it better to confide in men skilled in a particular subject than in those who were not. This

is as proper when applied to lawyers and judges, as to other professions and arts in common life. He who has made a particular science, art or trade, his long study and practice is more likely to form a correct judgment in the subject submitted to him than a mere stranger to that course of life. In the practice of medicine and where life and health are concerned, whom do we consult, a physician, or one who has never made the question of health and disease, and the *materia medica* his study? If a man is about building a house, he would be more likely to enquire of a house-wright, than a mere farmer or fisherman—and who is more likely to know the law, the court who have spent all their days in its study and practice, or the jury who may or may not have heard one or more actions tried in which they felt no particular interest and had no cause to pay much attention to it?

Judge Green. Mr. President—I think the motion may with safety and propriety pass. I was somewhat alarmed at the proposition in the forenoon, which went to strike out entirely. After the evidence is gone through with at the trial, it is considered to be the duty of the court to sum up the facts and to instruct the jury in the law and explain it to them. The first amendment went to take this duty from the court. The present amendment leaves it for the jury to decide the law as well as the fact. They are to be left at their discretion, after having received the law from the court. This is therefore such an amendment as would be perfectly agreeable to me.

Section 5th passed without amendment or debate.

Section 6th being read; Mr. Neal, of Elliot, moved to amend it by adding the words “*or either,*” to the first clause, considering that as it then stood without them, a man was obliged to appear by counsel or he could not be heard.

Mr. Holmes said he was surprised to hear this objection. In the Constitution of Massachusetts the provision is that a man may be heard by himself or counsel, and it might be said he could not appear by himself *and* counsel. But this provision was intended to give a man a right to appear by himself and his counsel both; and as the right to appear by himself cannot be taken from him, this gives him all that is asked for.

The motion prevailed, 162 rising in favor, and 106 against it; and the section passed as amended.

On section 7th being read, Judge Thacher enquired why oth

other crimes besides capital and infamous ones should not be presented, &c.

Mr. Holmes replied ; That by the Constitution of Massachusetts there is no provision for the presentment of any crime by a grand jury. But it seemed highly necessary, that capital and infamous offences should be investigated by a grand jury. There are other minor crimes which it is not so important should undergo this investigation.

Mr. Wallingford observed, that magistrates, by the law as it now stands, have the power to punish petty larceny and other offences which are infamous. This section will take that power from them which it may be desirable for them to exercise.

Mr. Holmes proposed to insert the words " or in such cases of offences, as are usually cognizable by a Justice of the Peace" (which were not in the report.) This would meet the wishes of the gentleman last up, and answer the purpose required. This amendment was accepted.

Judge Thatcher enquired into the meaning of the provision relating to the trial of militia, &c. *in time of war and public danger.*

Mr. Holmes said public danger, in this section, means a state of rebellion, or impending invasion. The militia are to be called out to repel the threatened invasion, or to suppress the rebellion. They are not then entitled to a trial by jury. They are under martial law, when called out for the public safety, although not in time of war.

Judge Cony suggested an amendment, in the last sentence, after the words "The Legislature shall provide," to insert "*by law*" (not in the report.) This, remarked the Judge, regards a subject of very great importance, and the Legislature ought not only to provide for a mode of selecting juries, but to do it by standing laws. The amendment was adopted.

The 7th section then passed without a division ; as did the 8th, 9th and 10th sections.

Section 11th was read, and Mr. Baldwin, of Mercer, moved to amend, by striking out the words "*ex post facto law*," and inserting in lieu thereof the following :—" Laws enacted for the punishment of crimes, committed before the existence of such laws, and by them only deemed criminal, are oppressive, unjust and incompatible with liberty ; wherefore no such law shall be made or exist in this State."

Mr. Baldwin gave his reasons at some length in support of this

amendment. He said every man has a right to know what his rights are. But the people in his part of the country did not understand Latin, as he supposed the words *ex post facto* were; and it would be with an ill grace we shall tell our children we do not know their meaning—the meaning of the constitution we have been forming.

Mr. Holmes. We were so fortunate, as to have the benefit of these same observations in committee. *There* the gentleman betrayed no ignorance of the expression. *There* was no subject learned or unlearned which escaped him. This extreme modesty must have induced him to feign an ignorance which he does not possess. The expression is perfectly understood by the gentleman, and he proved it by offering a translation as a substitute. It is a little singular that the words *habeas corpus* escaped the gentleman's criticism. That too is a Latin expression. Why did he not propose to translate that? Sir, the gentleman does not want a translation.

The amendment was negatived.

Mr. Wallingford moved to strike out the words "and no attainder shall work corruption of blood nor forfeiture of estate."

Mr. Holmes. Mr. President—I will satisfy the gentleman that his objection is groundless. A *bill* of attainder is a legislative act, convicting or attaining particular persons or particular offences. These legislative attainders are prohibited, as in the highest degree tyrannical. That which is regulated in the latter part of the section is a *judicial attainder*. General laws will define the crimes and prescribe the punishment, and if the punishment be *infamous*, the offender is attained by the judgment. Such an attainder may still attach, but it shall in no case "work corruption of blood or forfeiture of estate."

After some explanations by the mover and Judge Thacher, the motion was rejected.

The 11th section and the following sections to the 19th inclusive, then passed without division.

Section 20th was amended on motion of Mr. Neal, (of E.) by adding "*the party claiming the right may be heard by himself and his counsel or either, at his election*"

Judge Thacher moved to strike out the words "concerning property."

Judge Bridge, of Augusta, thought the words ought to be struck out, 'There are other controversies, said he, besides those concerning property, as those concerning reputation, &c.

Judge Parris made a similar remark.

Mr. Holmes said, I consider the portions of the section as distinct ; there are civil suits, and controversies concerning property. These are cases which are not merely civil, nor merely criminal. I therefore move to insert after "suits" "in all." This amendment was adopted and the section passed as amended.

Mr. Millikin, of Frankfort, moved to amend the 21st section, by inserting after the word "suits"—"*nor individual services required,*" with a view to the compensation of the militia.

Mr. Dickinson, of Machias, and Judge Thacher, thought the provision too general.

The motion was negatived 136 to 40.

This and the remaining sections then passed without division.

Voted, unanimously, that the report of the committee as reported in part (the Declaration of Rights) be adopted by the Convention as amended.

Voted, on motion of Mr. Holmes, that the Declaration of Rights be committed to a revising committee.

Messrs. Holmes, Whitman, and Johnson, of Belfast, were appointed said committee.

The committee of elections reported that Mr. Whitney, of Lincolnville, was entitled to his seat. Accepted. And the Convention Adjourned.

WEDNESDAY, OCT. 20.

Col. Atherton, of Prospect, moved that the following be adopted as an additional section, in the Declaration of Rights :

"No law shall be made by which any individual may be subjected to the performance of any militia duties, from which, or a direct equivalent, any white male inhabitant, of respectable character, and of the same age, is by a law of the State exempted."

Read, and ordered to lie on the table.

The same gentleman then offered the following resolution :—

"*Resolved*, That a committee of nine, one from each county, be appointed to take into consideration the expediency of locating the seat of government for years, and to designate the place most suitable for that purpose, and also for the first meeting of the Legislature of the new State, and for the organization of its government; and that the said committee be instructed to report previous to the final question being taken, on the acceptance of the whole constitution."

Gen. Chandler regretted that the subject was brought up at

this time, and hoped no time would be assigned to take the subject into consideration, at least, not until the constitution is completed. The feelings of gentlemen would be enlisted, and he feared the great object would be lost sight of, by discussing one of minor consequence at an improper time. And he did hope, that nothing would take place which should interfere with the important business of the constitution.

Judge Thacher. I think it should not be considered until we have finished the constitution—We are then to determine where the first meeting of the Legislature is to be held. To consider it now would obstruct the completion of the principal business of the Convention.

The resolution was then ordered to lie on the table.

THE CONSTITUTION.

ARTICLE II. ELECTORS.

Section I was taken into consideration.

Mr. Holmes moved to amend this section by inserting the words "*for three months next preceding any election,*" which were not in the report.

This amendment passed without discussion or remark.

Mr. Shepley, of Saco, moved to insert "*those who have been convicted of any infamous crime and not pardoned,*" to be added to those persons excepted from being electors for Governor, &c.

Judge Thacher said, he hoped the amendment would not be agreed to; because conviction before Justices of the Peace is not a certain criterion that the subject of the trial was a felony, or an infamous crime. He had known many cases where persons had been convicted before a Justice of the Peace, of feloniously taking and stealing the property of another, and fined by the Justice, when the case, being fully and fairly examined by persons sufficiently acquainted with the distinction between trespass and stealing, it would appear that nothing infamous had been done—it was a mere trespass by one on the property of another—or a dispute between two persons as to the title to a particular piece of property—many examples of which he had been acquainted with in the course of his practice, and would detail to the Convention if required. Should the amendment be agreed to, it might place the presiding officers at elections in an unpleasant situation. A voter being charged at an election with having been convicted, &c. how shall it be tried? The conviction may be stated as taken place in a foreign country.—If a paper is produced, purporting to be a copy of a conviction

as proof of the fact ; and the voter shall say, and offer his oath, that it is a forgery, what shall be done ? Suppose a lad eight, nine or ten years of age, should in fact be convicted before a Justice of the Peace of felony on a nest of hen's eggs, or some trifling piece of property ; and afterwards become a good and worthy member of society, will this Convention declare him forever after unworthy the privilege of voting in these elections ? He hoped not. There are many deviations from rectitude in youth that ought to be forgotten and forgiven when the regularity of riper years have made atonement by a regular and virtuous life.

Judge Cony. Mr. President—I am not prepared to vote for the proposition of the gentleman from Saco. If we adopt this amendment, it will carry us too far. The object of the mover is to preserve the purity of elections. This is certainly very desirable ; but we should not extend it beyond proper limits. The man who has been convicted of a crime may repent of his misdeeds, and become a reformed man and useful member of society. The most infamous characters may be pardoned.— But if he be really reformed, it would be hard to deprive him of a right so dear to him.

Mr. Usher thought it would be productive of difficulty and inconvenience in its operations. It would embarrass presiding officers at elections, by making it the duty of selectmen to inquire too closely into men's characters.

Mr. Wallingford agreed with the gentleman in his motive, but presumed he had not considered the objections that may be raised against his amendment. The selectmen of towns were a very improper tribunal to decide on the characters of citizens, or to determine that a man stood convicted of an infamous crime. A copy of the record of his conviction before a Justice of the Peace might be produced, to substantiate the fact, but that would be inconclusive, as the judgment might have been reversed in a higher Court.

Mr. Shepley was in favor of the amendment, not only because it tended to preserve the purity of elections, but also for the good effects it was calculated to produce in the community, without regard to elections. Young persons would be more cautious of committing crimes, and Courts would be more careful of convictions, when they saw such consequences as the result. He apprehended there was not much weight in the objections which gentlemen had made. As to the cases of improper convictions, before Justices, which sometimes happen,

every one has the right of appeal, and may have the judgment reversed. He saw no difficulty in selectmen's deciding by the record with sufficient certainty, when a man has been convicted of an infamous crime. If he offers to vote, he cannot be rejected unless a copy of his conviction, from the Court where it was had, was produced; and if he were pardoned, or the judgment reversed, he might have the evidence of it in his possession. Dr. Phelps, of Weld, said, he hoped the motion would not prevail, as it would be productive of inconveniences in town meetings. How are we to decide at the time of elections, whether a person has been convicted or not? He may not always have the evidence of his pardon with him, or a town the evidence of his conviction. If a vote were given in by him, and it were afterwards ascertained that he was not entitled to vote, the election might be considered illegal.

The motion was negatived.

Mr. Vance, of Calais, moved to insert "*Negroes*" after "*Indians not taxed.*"

Mr. Holmes. The "*Indians not taxed*" were excluded not on account of their colour, but of their political condition. They are under the protection of the State, but they can make and execute their own laws. They have never been considered members of the body politic. But I know of no difference between the rights of the negro and the white man—God Almighty has made none—Our Declaration of Rights has made none. That declares that "all men" (without regard to colours) "are born equally free and independent."

Mr. Vance and Dr. Rose spoke in favour of the motion, but it did not obtain.

Gen. Chandler was in favour of striking out "*established,*" and inserting "*he has,*" to which Mr. Holmes objected, and explained the reasons which induced the committee to adopt the expression, and the motion was withdrawn.

Col. Moody, of Saco, thought the provision of the Constitution of Massachusetts, was better than that of this article. The word "*inhabitant*" was well known—its meaning was well understood, and no one could mistake it; he would therefore propose to substitute it, for the words, "*his residence established.*"

Mr. Preble thought, if, instead of "*residence established,*" we insert "*where he dwelleth and hath his house,*" it would obviate the difficulty. This phrase has been familiar to us a great number of years. It is definite and precise, and has for

Sec. 4. Mr. Holmes, moved to strike out "Monday," and insert "Wednesday," as the day of election, as the arrangements for that purpose are frequently attended to on the Sabbath.

Col. Moody hoped there was virtue enough in the people of the new State, not to violate the Sabbath for electioneering purposes. There are strong objections to the alteration. There are many mechanics, who are in the habit of going home from their labor, a considerable distance, on Saturday, and returning on Monday morning; and it would be much more convenient for them, to attend the elections on that day, and not to be obliged to go home on purpose.

Mr. Baldwin said, the farmers would be equally incommoded by the alteration. They frequently want to leave home in the beginning of the week, to go to market, or for other purposes, and be absent for the week, and this would interfere with their business.

Mr. Parsons, of Edgecomb, said the fishermen were equally interested in preferring Monday, as they generally go out the first of the week, and return home at the end of it.

Mr. Holmes said, as three classes of people had already been mentioned, as suffering inconvenience from the proposed change, he would withdraw his motion.

Mr. Cutler, of Farnington, moved to strike out "September," and insert "October."

Gen. Chandler hoped the motion would not prevail. By the Constitution, as reported, the towns are to be classed for the purpose of choosing representatives, and they would therefore need more time, in case an election is not made the first time, to complete the election.

Dr. Phelps was in favor of October, and wished to have the third, instead of the second Monday.

Mr. Vance preferred September, for the reasons given by Gen. Chandler.

Mr. Holmes said, it was the object of the committee, to fix on a day between the former and latter harvest, as the least busy season, and they considered the second Monday of September, as coming nearest that purpose.

The motion was lost.

Dr. Phelps moved to strike out "second," and insert "third Monday."

Col. Moody, thought it best as it stood; the third Monday

coming so near the equinox, the weather would not probably be so favorable. This motion was also lost, and the fourth section passed without amendment.

ARTICLE III.

DISTRIBUTION OF POWERS.

This article passed without debate.

ARTICLE IV—*Part First.*

LEGISLATIVE POWER—House of Representatives.

Sec. 1st, passed without discussion.

Sec. 2d, in the original report, contained only the first sentence.

Judge Bridge. Mr. President—I rise at this time, merely to make a remark or two on the “amendment,”—the remainder of the section. At the time it was made, I had strong objections to it, which have since been removed. I did believe, that by the amendment, a certain number of inhabitants in our county, would elect a representative, which would not have the same power in another county. But as the number is fixed in each county, this cannot now take place, if the number is kept below one hundred and fifty; as I find the apportionment on the counties will be equal, or will operate equally.

Gen. Chandler. Mr. President—Although the objections of the gentleman are removed, my objections are not removed. My objections are to the apportionment of the Representatives on the counties, and then on the towns within the county. I will not deny, that at the time of the apportionment, it will be equal; but if apportioned to the counties and towns only once in ten years, (which may be the case,) it will be in the result unequal. For instance, an apportionment is made to day for ten years; in the course of this time, the increase of population, in the county of York, is little or nothing; it is nearly stationary. Whereas, in the county of Somerset, and other new counties, the increase is so rapid, that their population is almost doubled in ten years. Still these counties and the towns therein, can only be represented, until the end of ten years, according to their population ten years before, and it will therefore operate unequally. Besides, if this system of apportioning the representation on the counties be adopted, it makes the system more complex, and a less number of inhabitants in a town in one county will give a representative, than it will require in a town in another county, owing to the number of towns to apportion the representatives upon.

It really appears to me, that it will be better understood, and that it will operate at least quite as equally, to assimilate the system, in some degree, to the old system. Let a town, having a certain number of inhabitants, (say 1500.) be entitled to one representative: then if you please, take the ratio reported in the third section for additional members, and class such towns and plantations as have not fifteen hundred inhabitants, until thus classed, the class shall contain that number at least, and as nearly so as may be, without dividing towns or plantations, and without first apportioning the representatives to the counties; and let it go through the State in this manner. Indeed, there will often be large fractions, after giving a town one representative, before they will be entitled to a second. This has heretofore been the case, under the old system, and no body was injured by it.

It is very evident that there is a strong desire in this Convention, and with the people of Maine, to respect corporate rights, or in other words, to adhere to town representation; and I confess I am among those who think favorably of the principle. And throwing away the fractions, which there may be over and above the number required to send one member, before they can send a second, is one means of reducing the representation. And if it is said that large towns will lose large fractions—so will small towns lose large fractions, before they can be entitled to a representative, but by classing with other towns. And the large towns may much sooner outgrow the inconvenience than a smaller one. And as I believe a more liberal representation is also desired by a portion of this Convention; with a view of getting rid of apportioning the representatives on counties, as well as to limit the number at three hundred, instead of two hundred, I will move to strike out all the second section, after the fifth line, (‘the amendment.’)

Judge Cony rose to suggest that, as this was the most important article in the Constitution, whether it would not be better to dispense with the rules of the Convention, that the members might take up the whole subject at once, and discuss the second and third sections together.

Mr. Holmes wished for a division upon the second section, without the amendment, in order to simplify the subject, and observed that the whole subject might be freely discussed.

Judge Thatcher addressed the chair and said, he would move to strike out the words “not less than one hundred nor more than

two hundred," not so much because he had made up his mind to oppose these numbers, as the two extremes or limits to the Representative body, but to give the members of the Convention an opportunity to express their minds in a cool and deliberate discussion on the nature and fitness of *the number* of members which will be proper for the House to be composed of. He said he knew of only one general position in which all the members of the Convention and all the people of the territory represented by them agreed in without a dissenting voice—and that was, that the House of Representatives of the Commonwealth is much too numerous, and that the House of Representatives in the new State ought to be so organized as in no circumstances to bring in any thing like such a number. He said he had attended, for some time, to the opinions of those he had conversed with, and enquired of others, in all parts of the territory, and was able to say the general voice was that the House ought not to exceed one hundred, and none went over one hundred and twenty or thirty,—if a mode of increase should be admitted. He further stated, it seemed the deliberate opinion of well informed men of the other part of the government, with whom he had lately conversed, and many who did not belong to the State, that one hundred Representatives would always be abundantly adequate to all the purposes of legislation—While many thought a less number would be better. For his part he was willing to acknowledge that he was not capable of laying down any precise rule by which the Convention could arrive at a given number, and then say, that number was the only number best calculated for the object of legislation. Various numbers had been mentioned from fifty, to one hundred and fifty; very few indeed had even supposed the Convention ought to think of a larger number than the last. But no one was ready to say, the particular number he mentioned was in itself better than a number a little higher or lower. They had very generally fixed on *one hundred*; but no one could say that number would be more suitable for legislation than ninety five and one hundred and five. This is a subject that does not admit of numerical precision. We can safely declare the number ten, twenty, or thirty to be too small—and four, five or six hundred too large, and thus avoid injurious extremes—while there may be many intermediate numbers that have no peculiar advantage over their neighbours. For his part he thought, however, the

danger was, that the Convention will ultimately fix on too large, rather than too small a number.

But he continued, avoiding the great extreme that the States, in general, throughout the Union, have been into of having too numerous Houses—there were some advantages to be derived to the public by what will then *be called a numerous House*, though they fall considerably short of the Commonwealth, and of many other Legislatures. If every town in the district were to send one Representative by a constant increase of towns the House might be thought too numerous ; yet many advantages result from the evil—every member gains much useful information and carries it to his town. The Legislature is an important school, and the members from distant country towns that have but little connection with the great political world return home as teachers and school-masters ; and though these advantages cannot be estimated by dollars and cents, yet general observation will satisfy every discerning mind they are an equivalent to the expense. Much has been said in favour of a numerous representation because it carries the feelings, passions and individual interests of the people into the legislative body. For his part, the Judge said, he never could estimate these sources of such information very favourable to legislation. A legislative body does not want either the feelings, interests, passions or humours of individuals. It wants the calm judgment, sagacious foresight, a knowledge of facts with a ready power of combination—a very little feeling and much common sense will make a good representative.

Not being able to fix on a certain number as above all others, and exclusively, the best, some number between the extremes must be adopted, and the Judge said, he was inclined to take some number as near to the lowest extreme as could be agreed upon, he thought there was less danger of erring at that than the other extreme. It had been before observed that twenty or thirty would be too small, and four, five or six hundred too large. The report of the committee have fixed on a medium, of not less than one hundred nor more than two hundred—And these are to be elected by towns and districts. He said he had always been in favour of town representation, if it could be so apportioned as not to be too numerous ; and he certainly was not for going so far as many might wish who live in large towns. Those gentlemen who are in favour of the smallest number are for a distinct representation. This, he thought, would be attended with some inconveniences.—Suppose one hundred rep-

representatives should be the number—then admitting the State contains three hundred thousand inhabitants, every three thousand will send one, and the State will be laid out into one hundred districts. This will require some towns to be divided and others to be combined together to make up the number of votes. Perhaps it may be declared that the State shall be laid off into districts corresponding to the county lines ; or some other division, so as to make twenty, or twenty-five districts, each containing an equal number of inhabitants in an equal number of towns, and then the whole number of representatives equally apportioned on the districts. This will certainly be equal representation and an equal mode of election. But it will be new to the people and attended with some serious difficulties. Suppose a district to contain ten or more towns, and the meetings for election are held in towns, as they now are, how shall it be ascertained whether a choice is made ? Shall there be a canvas in each district and if no choice is made, another meeting called ? and so till the number allowed the district be elected ? or shall the votes be returned to the House of Representatives and there counted ? and if no choice, another precept to the district ? or shall the House fill the vacancies as is done in the Senate of the Commonwealth ? If this last mode be adopted, then the representative is not chosen by the people. This will introduce a new principle into our system of representation. If a new precept is sent out to the district, this will produce dangerous delays, &c.

But it is said, by some, that if counties or other large districts are adopted, it may be provided by law for all the voters to attend at one time and place in the district and give in their votes, as we now do in the several towns—which will remedy the evil ; for if no choice is made by the first balloting, it may be repeated till one is effected. This mode however will be attended with many evils, as all who are acquainted with the elections in England and in those States, where a similar mode is adopted, very well know, and do not need now to be detailed.

It is to be considered too that if we take the districting system we must take it with all its consequences ; and one is as the districts will settle unequally, the representation will soon become unequal unless there be new districts, and this will become necessary very often ; as some districts will increase much more rapidly than others. He was in favour of the report of the committee as it made it necessary for a town to have fif-

teen hundred inhabitants to entitle it to one representative ; and he should not have objected, if the number had been higher. He likewise was well pleased, that the number of inhabitants had been selected rather than the number of qualified voters as the ground and criterion of the right of a town to be represented. The old mode was subject to unfairness and sometimes to political frauds—to speak the most favourably of some transactions.

He thought the ratio fixed upon to determine when a town shall send more than one, or two representatives &c. to be as just as could be devised and yet preserve any thing like a town representation. And though the representation, as contained in the 2d and 3d sections, will not be so perfectly equal as that by general districting would be, he was of opinion it had better be adopted. The large towns complain that they have not their proportion of representatives, which is true in theory, but 'tis well known that large and rich towns have many means by which they extend their influence beyond the simple mode of representation. And according to the system reported, the representation is perfectly equal as it is apportioned equally to the number of inhabitants in the several counties, and the mode of choosing by towns is a little unequal ; but it must be acknowledged that for all purposes of legislation two men can represent four thousand inhabitants as effectually as fifteen hundred are represented by one. It is not the number of representatives merely that constitutes the *perfection* of representation to a town or any given number of people. 'Tis the *knowledge and capacity for legislation united to inflexible integrity*—these and these only are the proper qualities to form a good representative.

The representation by districts is a new thing in practice, and so is the idea of a limited number of representatives in a representation of laws where these corporations are constantly increasing in number, as well as the inhabitants in each and every town. It must be perceived that no ratio can be fixed upon but what will in process of time exceed any fixed number of representatives that does not exceed the number of two hundred—the largest number proposed in the report of the committee. This is enough to satisfy every candid mind that the old system of town representation must be in a great measure abandoned, or the idea of fixing the number of representatives must be given up. Town representation is inconsistent with a fixed number of representatives—nor can it be made so equal as that by districts, but by allowing every town however small

to send one--and making the number of inhabitants that entitles a town to send one representative, be the ratio by which the representatives in the large towns shall increase. The consequence of this would be, the ~~reply of~~ ^{number of} ~~any~~ body would soon amount to a thousand or more. The two systems, he observed, were both attended with difficulties, if pursued alone, and as they have been separately practised upon in different governments. He thought it very questionable whether the Convention could do better than to take the general system as contained in the report; it seemed to him to be a complex system, and united the original representation by towns, as far as that could be pursued without increasing the representation too much, and so much of the new districting system as admitted the number of representatives to be fixed, and yet sufficiently provided a representation for all the small towns and plantations with as little inconvenience as the nature of the subject would admit of.

Mr. Low, of Lyman, said he was very sorry he had the misfortune to differ from his worthy friend from Biddeford. But he thought the system reported was the best that could be devised. If the system of districting was adopted, he was confident the constitution would be received by the people; but was of opinion that the mode reported would give universal satisfaction.

Mr. Holmes. Mr. President—I regret that the Hon. gentleman from Biddeford had not moved to insert, as well as strike out—It seems inconsistent to attempt to make a blank, which a majority of this Convention would never agree to fill. A motion to strike out and insert, I consider indivisible—And had the Hon. member provided in this way, every number that any gentleman might have preferred, might have been attempted, and if no one had succeeded, the number reported would stand. Providing in this way every gentleman might have offered his scheme, as a substitute for the one reported, and could a better one be offered, I would as one, most cheerfully adopt it. It is my duty to state the difficulties which the committee experienced in framing this part of the report. The committee found, and I trust that this Convention will find, that it is not easy to fix on a principle which will give general satisfaction.

A representation by towns had become familiar from long experience, and to abandon it would have been to encounter habits and prejudices strong and obstinate. But we deemed it our duty to limit the number. This, as we believe, the people.

expect. I know they have been promised a cheap government, that one third of the usual number might perform the duties of legislation, with much less dispatch and much less expense ; and that with ~~that~~ that number, distributed upon the principles of equality, the rights and liberties of the people would be perfectly safe.

These principles are diometrically opposed—It is impossible to preserve corporate representation to its extent ; restrict the number within any reasonable limits, and at the same time preserve to the people an equal representation—How is it to be done ? How are these three favourite plans, at cross purposes with each other, to be accomplished to the satisfaction of the people of Maine ? Are gentlemen prepared to give up the limitation ? Will any member hazard his reputation by providing that each town may elect a representative, that the plantations shall be represented in some way, and the large towns have their representatives increased in proportion to their numbers ? A representation, thus predicated, would give to your first House, more than three hundred members, and this number would be constantly increasing until the House would bear more the character of a mob, than a legislative assembly. Will you provide for such a House, pay them from the public treasury, and thus treble your State Tax ? Gentlemen say, that people value their rights more than their money—it is an honorable thought. But if their rights and privileges can be preserved consistently with economy, they will hold us answerable for every needless expense—And after all, to what does this corporate right amount ? Is there not something of prejudice in it ? And shall a small town having five hundred inhabitants, claim a representative, when in a large one, it requires two thousand to derive the same privilege ? This, instead of a corporate right, becomes a corporate *wrong*. This mode would do great injustice to the large towns. You take from them an equal representation and compel them to pay according to their property—Is it right that Portland, should pay a larger tax than the county of Washington, and should elect only one third as many members, and that the county of Washington should have the benefit of their diminution ? The course adopted by the committee is a compromise of these opposite principles—As far as possible, we have limited the number, preserved an equality in the different sections of the State, and secured to the towns their accustomed privileges.

We apportioned the number of representatives among the several counties according to their number of inhabitants. The people of a county have a community of interest and coincidence of feeling, arising from an acquaintance in transacting their county concerns. If there is any thing like sectional divisions, it exists in the counties. The ordinary towns will be entitled to a representative, the small towns and plantations will be classed as conveniently as possible, and of the larger towns a larger number is required for the second representative, and a still larger for the third, and so on progressively, fixing the utmost limit for any town at seven. By this process, you preserve the equality in the counties, and the corporate rights as much as possible, and although you diminish the influence of the large corporations, you throw this influence into the small ones in the same vicinity.

If you retain the limitation contained in the report, it will result that the members will be paid from the general fund—this ought to be the case, and I am ready to pledge myself that if the object is not already secured, I will move an amendment which will embrace it.

I trust the motion to strike out, will not prevail.

Mr. Hodsdon, of Levant, said it was important to take into consideration the effects of the proposed apportionment upon our posterity, as well as upon the present population; and went into some calculations to show the inconveniences of its operation, and the propriety of adopting the motion to strike out. From these calculations it appeared that if our population should double every twenty-five years, according to the ratio now fixed, there would be but one representative for 192,800 persons, after the lapse of one hundred and fifty years.

On the question being put, 99 rose in favor, and 149 against it—so the motion was lost.

The vote was then taken, on adopting the whole of the 2d Section, and it passed, by 137 to 95.

Mr. Herrick, of B. moved for a reconsideration of this vote. I confess, said he, my opinion on the subject of representation has somewhat altered. I was as much in favor of reducing the representation as any one. I did think our expenses would be very much diminished. But I do not think, that to obtain this object our privileges should be rendered insecure. The only objection to a large number of representatives, is the expense to which it would subject us. The business would be done with

as much despatch, as by a small number. If it is not very excessive, it is much better that the towns should be represented.

Mr. Neal, of E. said he was well aware we ought to reduce our representation. In the county of York, he said, we have had the right to send two from every town, and I think we may reduce the number of representatives more than two fifths, as supposed by the Hon. gentleman from Biddeford. He then offered a substitute for the 2d and 3d sections, the principle of which was, that towns with 1500 inhabitants should elect one Representative and 3000 to elect two—with 6000 to elect three, and proceeding with this increasing *ratio*, smaller towns to be classed or to elect a portion of the time as they may agree.

AFTERNOON.—A question of order arose, whether on the motion to reconsider the vote accepting the 3d section, the whole subject of representation was open for debate; the President decided it was fully open.

Col. Moody. Mr. President—I regret that the vote passed in the forenoon, without more discussion; but I am now opposed to reconsidering it. I think, sir, no gentleman ought to move for a reconsideration, without offering a substitute and giving his reasons for its adoption. It is proper for a member to make this motion, for the purpose of proposing an amendment which should fully express his object; but not without distinctly stating his views in case the vote to reconsider should obtain.

Judge Green. I was an attentive observer of what passed in the forenoon, and I think every thing was conducted in order; and so far as I observed, the whole subject was fully discussed. As the whole subject may be freely discussed on this motion, the vote ought not to pass, unless for the purpose of adopting an amendment, that every gentleman of this Convention should have opportunity to express his opinion upon the subject.

Mr. Herrick. Mr. President—The remarks which I made in support of the motion to reconsider were quite undigested, and were offered on the spur of the occasion. But, sir, as gentlemen are of opinion that the motion ought not to be considered, but in connection with a substitute, I will not undertake to pull down, without being ready to lend a hand in building up. I therefore propose to offer an amendment, by which every town containing one thousand inhabitants will be entitled to a representative. I am aware, sir, that this project will make a

considerably numerous house of representatives. But there are many reasons for its adoption. One reason which has great weight with me is the means of diffusing information among the people which it would afford. In this way, a numerous body of representatives will compensate for considerable expense. If there are few who are concerned in making laws, it will be more difficult to satisfy the people of their reasonableness. If our representation is to be so thin that but one representative in eight or ten miles square is to be chosen, the commonalty will have little or no opportunity to obtain information of the measures of the government, and explanations of the policy and propriety of the acts of the legislature. It appears to me, Sir, we are more particularly legislating for ourselves, and do not sufficiently regard its effects upon the community. Let us look at the public good alone, and we shall not be alarmed at the additional expence incurred by an increased number of representatives. If we have one for every thousand inhabitants, it will make their annual expence about \$19,200, or about six cents to a person; and if we have one hundred, the expense will amount to nearly one half as much; and I consider the difference would be well expended, in spreading the additional information through the state.—I have nothing more, Sir, to say which may be considered pertinent, and I should be unwilling to offer any thing which is impertinent.

Gen. Chandler, wished a liberal course might be pursued in the discussion of this important and interesting subject, and that the whole would be considered in one view.

Judge Bridge, hoped the vote to reconsider, would take place, in order to open the subject fully, and that gentlemen might feel themselves unshackled in the debate.

The motion to reconsider passed, 217 to 31.

On motion of Dr. Rose, *Ordered*, that the 2d and 3d sections be taken into consideration, that the whole subject of representation may be considered at the same time.

Mr. Locke, spoke in favor of taking off the limitation of the number of representatives, in order that every town, when it arrived to the number of 1500 inhabitants, should be entitled to a representative.

Mr. Usher, moved to strike out the words "nor more than two hundred," which limited the number of representatives.

The President decided, that the project of Mr. Herrick, was now in order.

Mr. Herrick then offered the following amendment, as a substitute for the second and third sections:— 'Every town in this State, heretofore represented in the House of Representatives of Massachusetts, shall elect one representative; and every other town in this State containing 1000 inhabitants, shall elect one representative; and every town in this state containing 3000 inhabitants, shall elect two representatives, and for every additional 3000 inhabitants, an additional representative: *Provided*, no town shall be entitled to more than five representatives. And any two or more towns or plantations whose inhabitants shall not be sufficient to entitle each to a representative, but whose inhabitants together shall amount to 1000, may voluntarily associate themselves together from year to year, for that purpose, and shall be entitled to one representative."

A motion was made to fill the blanks, which were left in the amendment for the several numbers.

Mr. Herrick observed that he wished it first to be decided, whether the system were adopted. I wish further to state, said he, that I do not make this proposition from interested motives, as it will not affect my town, it being amply provided for in the reported constitution.

Mr. Holmes hoped the gentleman would fill the blanks, that the Convention might fully understand its operation.

The blanks were afterwards filled, as above.

Judge Cony. I am aware, Mr. President, that the subject now under consideration is the most difficult one in the constitution, for the Convention to come to a conclusion upon, with any thing like unanimity. But I hope, Sir, it will be considered with patience and candor. There seems indeed to be considerable difference of opinion among the members of this body, upon this interesting subject, and it is said out of doors, that our constituents will not adopt the constitution as it is reported. Sir, the subject of representation is all important, and our constituents do expect, that we shall agree upon a system which shall much contract the present number. I hope, Sir, we shall adopt one that will be satisfactory to them and to generations yet unborn; for it is difficult to effect a change in a constitution. It has been found difficult to revise the constitution of Massachusetts, though many have long desired a revision. When the Convention which framed the Constitution of the United States met at Philadelphia, it was for the purpose of revising the old

confederation, and although the constitution which they presented to the States, was not strictly within their powers, it was accepted ; and we have reason to bless God for it.

I hope, Sir, we shall reduce the number of representatives to one hundred, and that it will never exceed two hundred. For myself, I have not been able to see the weight of the objections which have been made to the report. Why should we adhere to the rights of corporations? I understand that the government is to be founded upon a system of equality. But where will be the principle of equality in giving the right of sending representatives, to small towns? I have heard of no proposition, which did not include the principle of classing. And if we adopt the principle, why should we not extend it? I did not come here to inquire what were the opinions of the majority, but to discharge an important duty. If we take the principle of districting, it will not be so unequal, as the one suggested. If the system of representation is to be changed, I think the present the only time. We have now to adopt new principles and new measures. I contend, Sir, we ought to class, and if we take less than three thousand for the first representative, we ought to begin and go through. The plan reported seems to me, to be a practical system. The legislature can, from time to time, new class the towns, as it becomes necessary. I want a principle that will answer for present and for future times. I am not in favor of ninety, or an hundred, or any precise number, but should desire that the number should be fixed.

Judge Thacher observed that there was a general wish to reduce the number of representatives, but the plan proposed would rather tend to increase it.

Judge Bridge. Mr. President, I rise simply to state to the Convention, the result of some estimates of the number of representatives, according to the proposed ratio. The committee found that by assuming 1800 as the number of inhabitants which should entitle a town to elect a representative, the whole number would be *one hundred and sixteen*. By taking 1500 inhabitants, for the first representative, the number would be nearly *one hundred and fifty*; by fixing it at 1200, the number of representatives would be *one hundred and eighty*—at 1000, it would be *two hundred and twenty*—and by adopting the Massachusetts plan, it would be *two hundred and thirty*. But if the motion before the Convention prevail, it would nearly

double the number now proposed, and we shall have *three* hundred to begin with.

No sentiment has been more strongly impressed on our minds than that the public opinion demanded a reduction of the number of representatives. To come at this object, there were but two modes presented—one was by a general districting throughout the state—the other by a general representation of corporations. The first, it was thought was too repugnant to the feelings and habits of the people, to be acceptable. We therefore attempted to reduce the numbers by a representation of corporations and increasing the ratio. It was found, that by this mode, the loss would fall mostly upon the large towns; and I was happy to see the delegates from those towns ready to accede to it. It would not injure the smaller towns, but rather operate for their benefit, as it would give them rights which they had not before. Upon these grounds we thought that 1500 inhabitants was a suitable number to begin with.

Mr. Holmes. The more I hear the sentiments of gentlemen, the more I am convinced we cannot agree upon any mode which will be generally acceptable. To quiet the alarm that the large towns will swallow up the small towns, I shall offer an amendment which will secure them from this evil.

Adjourned.

THURSDAY, OCT. 21.

Rev. Mr. Hooper, of Paris, suggested the propriety of passing the 2d and 3d sections for the present, and proceeding to consider the remainder of the Constitution; as there appeared to be a great difference of opinion on this subject. But no motion was made, and the Convention resumed the consideration of the subject which was left unfinished yesterday.

Mr. Allen, of Norridgwick, stated to the Convention, some estimates of the numbers of representatives according to different ratios. By this statement it appeared, that, estimating the population of the State at 300,000, and allowing 2000 inhabitants to entitle a town to a representative, and proceeding in the ratio proposed by the Committee, there would probably be 100 representatives, and 50 towns would be entitled to one or more. To begin at 1800 inhabitants for the first, there would be 116 representatives, and 70 towns entitled to send; at 1500 inhabitants, 150 representatives, and 90 towns entitled; at 1200—180 representatives, and 111 towns entitled; at 1000—211, and

140 towns entitled. By the Constitution of Massachusetts, the several towns are authorised to elect 280 to the General Court, and 75 towns are not entitled to send.

Judge Bridge observed, that he found the principal difficulty arose from the limitation of the number of representatives, by which towns now entitled to a representative would hereafter be deprived of this privilege. In order to remove this difficulty, to leave the subject open, and remove the apprehensions of gentlemen, he would move that "two hundred" be struck out, and "three hundred" inserted.

The President decided that this motion was not in order.

Judge Thacher The statements made by the gentleman from Augusta, (Judge Bridge,) and the gentleman from Norridgewock, (Mr. Allen,) are very important, and enable the Convention to proceed upon sure ground ; they can now see what any given number of inhabitants will result in. If 1800 is fixed upon as entitling a town to send one, and keeping the ratio proposed by the report, it will bring into the house one hundred and twenty members ; if 1500 is taken for the first number, and entitle a town to send one, then it will bring in 150. The gentleman from Bowdoinham has proposed one thousand as the number to entitle a town to send one, &c. which would give two hundred and eleven immediately ; and the increase will be so rapid, as soon to exceed that of Massachusetts. The evils of a large representative body are universally acknowledged, out of this Convention, and that it ought to be reduced. The Judge said, the more the subject was considered, the more he was disposed to look favorably on the report of the Committee.

Mr. Vance, was opposed to any plan which should increase the number of representatives. Instead of 1500 being the beginning of the ratio, he should prefer a larger number. He had not seen one person in his part of the State, who wished for more than one hundred representatives. The plan proposed will give one hundred and twelve. Will not this number enable the Legislature to legislate more understandingly than five hundred ? There is not one member from the county of Washington, who is not perfectly satisfied with the report. Although there is no district in that county which will not contain nearly two thousand inhabitants, and some will have forty miles to travel to elections ; yet complaints do not come from that quarter. I believe, said he, the *electors* are not so much afraid of this plan, as those who expect to be elected. He felt no fear to

return home, and carry the Constitution which lessens the number of representatives.

Mr. Herrick said, he brought forward his project, as a substitute for the one he had moved to strike out, and from the necessity of the case ; but he should be glad, if other gentlemen, who did not like the report, nor his proposal, would offer another, which he should probably himself think preferable.

The President made some remarks on the subject. He regretted that the Committee had undertaken to apply principles which rather belonged to legislation. If you undertake, said he, to class towns which are hostile to each other, so that they cannot be altered, you create difficulties. If, instead of classing towns, you send your representatives according to the present plan, only limiting the number, and let any town now entitled to send one, preserve the right, and let the first Legislature do the work of classing, these difficulties might be obviated.

After some conversation, Mr. Herrick withdrew his motion, to give precedence to one about to be offered.

Gen. Wingate, of Bath, said he thought the classing of towns was a legislative business, and he wished to leave it to be settled by the first Legislature ; and for this purpose moved, that the following amendment be adopted, as a substitute for the sections under consideration, which was as follows :—

That the House of Representatives first to be elected under this Constitution, shall consist of members to be chosen by the several incorporated towns within this State, each town being entitled to the same number as though this Convention had not been adopted—*provided however*, that all such towns and plantations as would not be entitled to a representative, may, by a major vote and mutual agreement among themselves, class themselves for the purpose of electing a representative ; and the representatives so chosen by any class, shall produce to the House of Representatives, together with the proper evidence of their election, an attested copy of the vote of the several towns and plantations forming such class, to class themselves for the purpose of such election, and also a certificate of the assessors of such towns and plantations, of the number of polls in their respective towns and plantations. The House of Representatives to be elected on the second Monday of September, 1821, and forever thereafter, shall consist of not less than one hundred members, nor more than three hundred, and shall continue in

service one year from the day next preceding the annual meeting of the Legislature. *Provided however*, until the population of the State shall amount to 500,000, the number of representatives shall not exceed 250. And the Legislature shall, before the first day of May, 1821, and within every subsequent period of at most ten years, cause the number of inhabitants of the State to be ascertained, exclusive of foreigners not naturalized, and Indians not taxed; and the number of representatives shall, at the several periods of making such enumeration, be fixed and determined by the Legislature; which members, so fixed and determined, shall first be apportioned by the Legislature, among the several counties in the State, as near as may be, according to their number of inhabitants, having regard to the relative increase of population. And the Legislature shall further apportion the representatives, so assigned to the respective counties, among the towns in their respective counties, as near as may be, on the principle of equality, giving to each individual town that may be entitled thereto, upon such ratio as shall be established by the Legislature, one or more members, and classing the towns and plantations not entitled to one member, in such manner that each class may elect one representative.

Dr. Rose said, it seems the people in the eastern part of the country are in favor of a reduced representation. The gentleman from Calais, in travelling through the country, found this to be the case; and this might be found to be the case in travelling further. But on more inquiry, he believed the people were not so much afraid of the expense of a numerous house, as they are of the mode of districting.

Mr. Wallingford said, he rejoiced that the motion to reconsider passed; that the motion of the gentleman from Bowdoinham was withdrawn; and he also rejoiced at hearing the motion of the gentleman from Bath. It is a proposition which will relieve us from the many difficulties which attend the attempt to class the towns by the Convention. It is the proper subject of legislation, and I rejoice that a proposition has been made, which I believe will be perfectly satisfactory to our constituents.

Col. Moody. Mr. President—I hope the amendment offered by the gentleman from Bath, will meet the approbation of the Convention and be adopted. It is such a proposition as is calculated to meet the objections which have been made to the report. It points out general principles, and leaves the details for the Legislature. Why gentlemen should be unwilling to leave

it to the Legislature, I cannot conceive. If it is left to them, to arrange and class the towns, I think the Constitution will be much more likely to be accepted, and that it will create much less excitement. I can see no possible inconvenience that will result from adopting this mode of representation. If we restrict the Legislature, so that they shall not go beyond certain bounds, there is no reason to fear their doing what is improper. The Legislature, having the census before them, will be better able to fix on the number of representatives, to apportion them upon the several towns, and to class the towns and plantations in such a manner as to be satisfactory to them. I therefore hope the motion will prevail.

Judge Ames, of Bath, observed, that he did not intend to have taken any part in the discussion of the subject under consideration—He would not however by this declaration be understood to mean, that he felt no interest in the subject. On the contrary, in his apprehension, it embraced the vital principles of a republican government; for (said he) it is by equal representation, that equal rights and privileges are secured, and impartial justice administered. But from the solicitude and anxiety, manifested by almost every member of this Convention, both in doors and out, he was led to expect, that every false and unequal principle would be readily rejected from the system of representation, and this interesting debate, ere this, have terminated in a perfect union of sentiment upon the subject. But (he said) his expectations were unreasonable and therefore justly disappointed. The subject, as reported (continued Mr. A.) is still attended with difficulty, and as great a variety of opinion is now manifested concerning it, as at the commencement of the debate. Under these circumstances his own apprehensions were greatly relieved on hearing the proposition of the honorable gentleman from Bath, as a substitute for the second and third sections now under consideration, and which, he hoped, would prevail, as in his apprehension it exhibited a better compromise of opinions and interests, than any proposition, which had been offered. By these two sections the whole number of Representatives can never be less than one hundred, nor more than two hundred, to be apportioned among the several counties, towns and plantations, according to the number of inhabitants upon the ratio and classification established. This apportionment and classification must necessarily take place for the first Legislature, and a provision is accord-

ingly reported in another part of the Constitution for that purpose. To the provisions of these two sections, which are both under consideration (he said) he could not readily assent. He was not yet satisfied, that the representation by these provisions was not too limited, and the mean increasing ratio unequal in its operation. That justice may be equally distributed there should be a representation of all the various interests, by which the people are distinguished, established upon just and equal principles. This cannot be possible with a very limited number of Representatives, and especially when the population is thinly scattered over an extensive territory. If the wisdom and integrity of human nature were perfect, the government of the people might with safety be placed in the hands of a single individual ; and then an absolute monarchy would be the best of all governments. But the history of nations bears conclusive and melancholy testimony against this supposition— From the suggestion of the honorable chairman of the committee (said Mr. A.) it seems the people have been told, their expenses for the support of government would be diminished by a separation from Massachusetts proper ; and therefore he infers the representation must be greatly reduced. Mr. A. said, he well knew the people wished their Government established and administered upon sound principles of economy, and, he had no doubt, these principles would be duly regarded by the Convention. But he had too much confidence in the good sense of the people, to suppose for a moment, that they would hazard their rights and privileges for the consideration of gold and silver. We are convened here to establish a government, not upon the feeble and corrupt basis of loss and gain ; but upon the principles of justice and equal rights. If the best interests therefore of the people require a larger representation than is provided for by the Report of the Committee, he was confident, this Convention would never be governed by the narrow policy of calculating the additional expense. He was also opposed to these sections, because the detailed apportionment in relation to towns and counties was a proper subject of legislation, and should not make a part of the Constitution ; and because in the apportionment itself for the first Legislature, upon the principles of the Report, injustice could not be avoided. A certain number of representatives, said he, not exceeding one hundred and fifty, is to be apportioned among the several counties, according to the number of inhabitants, for the first Legislature ; and who, he

would ask, knows accurately the number of inhabitants within each county? No enumeration has been had since 1810. The same difficulty is manifest, in apportioning the number assigned to each county, among the several towns and plantations within the county—nor will the increase of population in the several counties from 1800 to 1810, be a just rule for ascertaining the present number of inhabitants, in order to make a just apportionment of representatives. Some counties, as well as towns, since 1810, have increased much more rapidly, than at any former period; while others, since that time, have not increased at all. How then, (said Mr. A.) upon the principles of the Report, and at this time, previous to taking the next census, is it possible equally to apportion the Representatives among the counties, towns and plantations? Add to these difficulties the arbitrary and unjust classification of certain towns and plantations, required by the Report—unjust, because the representation is predicated upon population, and in the apportionment for the first Legislature, you cannot ascertain it—arbitrary, because in some instances you compel the association of towns and plantations, which are opposed to each other by local interests, feelings, and principles. These, said he, surely are evils, which the people must feel, and will not patiently bear. But how shall we avoid them, and give to the people, if they wish it, a larger representation, and upon more equal principles? By adopting, said he, the proposed amendment of my honorable Colleague. By this proposition, the number of representatives can never be less than one hundred, nor greater than three hundred, leaving it with the Legislature to fix the number, and apportion the same, among the several counties, according to the number of inhabitants, to be ascertained at the several periods of apportionment, giving to each individual town, as many members, as it shall be entitled to, upon such ratio, as the Legislature may deem most equitable and just. Here, said Mr. A. in my apprehension, the subject is placed just where it ought to be, in the hands of the people through their agents, the members of the Legislature. Should they not be satisfied with a representation of 200 members, they may extend it to three hundred, or reduce it to one hundred, as should be found in operation best suited to their interests. Nor did he believe, that any Legislature would so abuse this authority, as to produce a very unequal representation. Should they however do this, either in fixing upon an improper number, or in

establishing the mean increasing ratio upon unjust principles, there is "a redeeming spirit in the people," and they would correct the evil. It is true, by the proposed amendment, the number of representatives in the first Legislature may be large, but in this mode of apportionment, the representation would be more equal and satisfactory, than that, provided for by the Report. The number of rateable polls is known in every town, and therefore by electing the representatives for the first Legislature, upon the principles of the Constitution of Massachusetts, with the additional provision of voluntary classification, the unequal apportionment among counties and towns, and the inequality of representation, resulting therefrom, may be avoided. The towns and plantations, thus voluntarily classed, would be more harmoniously united, and more perfectly represented. If there be any evil in this supposed numerous representation, it can only be of short duration; and the important business, which must occupy the attention of the first Legislature, renders it uncommonly important, that every interest of the community, should be fully and equally represented. For these reasons, he was in favor of the proposed amendment.

Mr. Holmes. I am gratified that the subject has been opened, to give gentlemen an opportunity to offer their different projects, that we might see if there was any thing like unanimity. A substitute was offered by the gentleman from Bowdoinham, Mr. Herrick, but it was so imperfect, that it could not be adapted to the views of the gentleman himself. Several other schemes have been proposed, all probably very perfect, in the opinion of the movers, but all *different*, and, in many respects, *contradictory*. It has become my duty to offer my opinion on the proposition of my friend from Bath, Gen. Wingate; and I regret I cannot give it my support. I see so many evils from the operation of the principle, that I cannot consent to adopt it, instead of that reported by the Committee. Indeed, I am almost inclined to congratulate myself, that Massachusetts has given us a provisional Constitution; for I begin to doubt whether we shall be found capable of agreeing upon one for ourselves.

It is said that we should place great confidence in the Legislature, that the people will elect wise and good men, and that the principles of representation being settled, to make the application, is matter of legislation. Sir, I hope the Legislators will be wiser than we. If not, I fear they will never be able

to agree on a system which will suit themselves or the people. Sir, our duties are distinct and plain. The constitution is to create, direct and restrain your Legislature. And shall we leave the power and mode of creating it to the Legislature itself? The spirit of party may again prevail. The present, to be sure, is a time of great candor and tranquillity. But this may not always last.—The lamp of experience is my guide—What has been may again be. The time will probably come when faction shall rage and discord snap her whip of scorpions. The sun of peace may be involved in a cloud, and a storm of distrust and jealousy and hatred overwhelm us. Do you believe that your Legislature would *then* apportion your representatives according to perfect equity?

Why, Sir, do we shrink from our duty? Why are we sent here, but to fix bounds and to prescribe a rule by which the Legislature is to be created? And where is the shield to protect the rights of the people, if we surrender to the Legislature the right of self creation?

According to this proposition we shall have three hundred members in the first House, and while you swell the number greatly, the small towns will be deprived of their rights, to help the large ones. The principle of this scheme leads to districting, and I do avow, Sir, I should be unwilling that this constitution should go out to the people, with so heavy a minority as will be found hanging at its heels. I should be disposed, to prevent discord, to take a smaller number for the first apportionment, and a larger number for the highest limit. But this proposition gives too much power and responsibility, and I trust it will not succeed.

Gen. Chandler said, he came to this place with an opinion that we should take a different course from the one proposed; but he saw difficulties at all points, as the Convention proceeded, and was disposed to wish it might be adopted. He therefore moved that the proposed amendment be printed, and with the 2d and 3d sections, committed to a select committee.

Judge Cony wished, if there were any other propositions to be made, that they should be presented before proceeding further, and committing the subject to a select committee. Sixty-six frosty winters (said the Judge) have served to bleach these hoary locks—have palsied my limbs, and clogged this tongue; that is now struggling to convey my ideas to this Convention; yet under all these appalling circumstances, I shall endeavor to—

discharge my duty in expressing to the Convention my views of the best mode of representation, if the opportunity is given for gentlemen to offer their different propositions. The Judge then said, he was in favor of one hundred representatives for the first Legislature, to be enlarged from time to time, according to the increase of population ; but his ideas were given more fully afterwards.

Judge Parris could see no impropriety in proceeding in the discussion, and in the course of it to consider all the propositions which might be offered. They might all be considered by the committee, if it should finally be committed. I believe, continued he, it is generally expected that the representation will be reduced. The people do not expect impossibilities.

The President remarked, that he did not think it advisable to follow with strictness the rules of proceeding observed in legislative bodies, and thought that as there was a great variety of opinions on this subject it was advisable for any gentleman who had a scheme which he wished to offer, to put it into writing and lay it on the table. The whole would then be before the Convention and some one perhaps would be found that would better suit the majority, than that reported by the committee.

Judge Cony. Mr. President—I do not arise with much confidence that any project which I may offer will be generally acceptable, as it will go to the introduction of a system very different from that to which we have been accustomed. But as I wish to bring my views before the Convention, I will submit the following proposition as containing my ideas on the subject :—

“ The House of Representatives shall consist of *one hundred members*, to be apportioned equally according to the population of the State ; provided that after the number of inhabitants amounts to five hundred thousand, the number of Representatives shall be increased to *one hundred and fifty* and no more, to be apportioned as aforesaid.”

I am sensible, Sir, that from long and established usage, we have become attached to the present mode of representation. But almost all persons are dissatisfied with the result of the present method, however they might regard the mode itself. We hear a universal complaint of the number of our Representatives. It is not only expensive, but is too large to transact business with facility, and unequal in its operation. If we take

experience for our guide, we shall not fear to trust a small number of Representatives. Let us look at New-York and Pennsylvania ; if they have improved on us, shall we not learn from them ? I see no danger in a small representation. I feel much attached to the principles of the federal constitution, by which the representation is founded on a basis of equal rights and is not excessive. In the national Legislature there is but one Representative for thirty six thousand people. Yet we bear no complaint of a want of being represented. The business is well attended to, and even the private concerns of individuals do not suffer for the want of a more numerous representation ; at least no complaints of this kind have ever reached my ears. By the plan which I have submitted, we shall have one Representative for three thousand, and this will be enough for transacting the public business, and private and local concerns, without danger or inconvenience. There has no proposition been made which does not result in a partial classing of towns, and why shall we not carry it further ? This is the only effect of my proposal.

After having expressed my views on this subject, Sir, I shall cordially submit to its rejection, if it is not satisfactory to the Convention. I hope it will not be left for the Legislature to reduce the number of Representatives. It is *our* duty to reduce the representation, and I hope whatever system shall be adopted it will at least effect this object.

Mr. Neale, of E. considered it an established principle that the representation should be reduced in the new State, from that of Massachusetts. The number of 1500 agreed on by the committee would reduce in one half ; and he thought it preferable to the proposition now offered. He was opposed to fixing the number, but only wished the ratio of representation established ; and was for leaving the rest to be settled by the Legislature, or the people

Mr. Whitman, of Portland, said, that from the number of schemes this day suggested, it would be apparent no two members were agreed on this subject ; and he trusted the Convention were, by this time, sensible of the difficulties the committee had encountered in coming to an agreement. The scheme by them presented was a compromise at about a medium between the extremes of opinions. The committee had nearly, if not quite, as many views presented as are now before the Convention. The scheme of the committee (said Mr. W.) is not my

scheme. Mine was totally different. Before I sit down I will take leave to explain it to the Convention—not in the hope or expectation that it will be adopted ; for as I could not convince the committee, of which I had the honor to be a member, I cannot suppose I shall be more fortunate here.

We are, Sir, about to establish a form of government—not for one section or another of the State—not for the present generation only—but for the whole community and for posterity. The construction of the Legislative body is the most important, and at the same time, the most difficult part of it. We want a House of Representatives that shall not be too large to transact the public business in a reasonable time ; and which shall be large enough to embrace the talents and integrity of the State. Gentlemen seem to me to have erroneous ideas of the objects of a Legislative body. These have originated, no doubt, in some degree from the construction of the Legislature of Massachusetts—a Legislature the worst constructed in the Union—It is a perfect anomaly—there is nothing like it in any other State. Its House of Representatives has at times consisted of nearly seven hundred—sixty of which made a quorum. Gentlemen say this body has been innocent ; and no great inconvenience has been experienced from it ; that legislative business has been transacted with facility. Sir, it may be so—but how has it happened ? I can tell gentlemen how it has happened. These seven hundred members have not assembled for the purpose of legislation—They have assembled to try the strength of political parties—and for this purpose only. This done, and they have dispersed. This huge body has vanished, and left, perhaps, a quorum behind. In a very few days after this assemblage had met and organized the government, we have found the Speaker scarcely able to muster a quorum of sixty. If more remained it has not been for the purpose of general legislation—but to accomplish some paltry local object. The members entrusted with petitions, or the accomplishment of some trifling object, have remained after the multitude had dispersed. Those who have remained have been the real legislators ; and have transacted the public business. Till thus reduced the public business could not be transacted.

We are never to have a Representative body, I trust, like that of Massachusetts—a body perfectly changeable—composed of one set of men to-day and another to-morrow—and that in the same session. A proposition made on one day before one set of

men, would, on another, come up before an entire different set ; and finally be considered by, perhaps, a third. The members being paid by their respective towns, and being but scantily paid, consult their own convenience—attend when they can as well as not ; and no longer than their towns are willing to pay them. Hence the towns and their Representatives are habituated to consider it as no part of their duty to attend to any thing like general legislation. The Representative is expected to attend as a kind of agent for the town, to effect local objects altogether. Hence it has happened that the wealthy towns, that are able and willing to support their Representatives the whole term, have exercised the whole power of general legislation. In every other State the legislative body is constituted of such members, and of such members only, as can be kept together for the whole session ; and as are convenient for the despatch of business. The State of New-York, with its million of inhabitants, has a representative body of about one hundred and twenty-six. The great States of Pennsylvania and Virginia have each one of nearly the same size. Gentlemen here will not surely deny that the inhabitants of these three States, are as zealous republicans as we are. Yet they have never deemed a numerous host of Representatives either necessary or proper.

Gentlemen may see, in this Convention, a specimen of what a body of three hundred could accomplish. Here we are with all our variety of opinions ; and each tenacious of his own ; and each feeling himself bound to vindicate his own. What progress would this body make in enacting all the multifarious laws, necessary to put the new Government in operation ? Each member would propose his amendments, and offer his reasons in relation to every section of every bill. A representative body of one hundred is as large as ever ought to be formed. In such a body as much of talent and of wisdom could be comprised as could be found, and as would be requisite. A greater number would unreasonably impede the progress of the public business.

The first representative body under the constitution of the United States which organized the new government, to whom was entrusted the mighty affairs of this nation—the power of making war and peace—the control over the purse and the sword—consisted of about sixty members. And never were such important affairs, before or since, so ably managed. The organization of the government was so complete as to have remained, in a manner, untouched to the present day. So per-

fect is the Treasury system then organized, that as I have been told, a late Secretary of the Treasury, when making application for another office, on being told that his talents were necessary to that office, replied, that it was not so—that the Treasury system was in no such need of a man of talents—that it was so perfect it would go alone. The business of the nation has never been better transacted than by that little House of Representatives. It had all the talents, and all the wisdom that could be, usefully, combined in one body.

I am, Sir, utterly opposed to a large, unwieldy representative body. The people do not demand it at our hands—nor do they expect it. They wish only, to be wisely and equally represented. It is no object with them to have every hundredth man a representative. Let them be but equally represented; and by men of their own choosing; and, whether it shall take one thousand or five thousand, to elect one representative, they care not. Has there ever been any complaint that it required 30 or 40,000 to elect a representative to Congress? Never, to my knowledge.

I am, Sir, opposed to a body that shall have power to increase itself. I would, therefore, at once, have it as large as might be convenient for business, and never larger, let the population become ever so numerous. When a legislative body shall become too great there is no reducing it—it will not reduce itself. Of this we have ample evidence in the Legislature of Massachusetts. That body of seven hundred never seems to have had the disposition; and, if it could have had the disposition, it has never dared to attempt its reduction. In high party times, when nearly divided, neither party would dare to move it, as the other would be sure to attack it, as intended to abridge the right of representation; and thereby render the friends of the measure odious to the people. And hence Massachusetts has had no chance for an alleviation from any portion of that calamity, but by being separated from Maine.

The constitution of the United States is defective in this particular. There is no limitation to the size of its House of Representatives. It has already increased to a very inconvenient size. From about sixty it has now increased to 184. It is with difficulty that it can despatch the public business. Hence it is that we have seen a single proposition debated in that body for weeks in succession. The case of John Anderson and the questions relative to the Seminole war, and to internal improve-

ment, consumed a fortnight each. And it will, nevertheless, be impossible ever to reduce the members of this body. It will even increase. The members on making a new apportionment, after a census, will each look, with a single eye, to his particular district; and will not reduce the ratio of representation so as to increase the size of his district; or diminish the number to which his State shall be entitled. Hence it will happen that after the taking of the next census, in 1820, the house will be increased to, at least, 230, if not 250 members. When this will end I know not. But it cannot be long before the Legislature must sit, perhaps the whole year, and accomplish little or nothing.

One hundred is as many as ever ought to compose a House of Representatives. And in this State they should be apportioned to the counties according to population. And the number to which any county may be entitled, should be apportioned to be elected in districts of convenient size formed of entire towns and contiguous territory, the exterior limits of each of which should be as nearly equidistant from a common centre as may be.

These apportionments and districts should not be made too often—but should be made at stated periods. It should not be optional with a party in power to make them or not. Once in ten years after the taking of each new census, would be sufficiently often. It would not do to allow it to be done otherwise. It must not be made an engine of party. We, to be sure, see nothing of party among us, at this time; and it is a fortunate circumstance, indeed, that we do not: But we cannot promise ourselves that we never shall. The time may come, nay, Sir, it must come, when we shall see the same scenes repeated which have already disgraced us. A republic is said to be the nursery of party. It is against these that we must guard. When we place power in the hands of our legislators we must, at the same time, as much as possible, guard against the abuse of it. If we make it imperative upon our legislators to apportion and district once in ten years they will not be able to turn it so much to party purposes. If they should, on making the districts, have an eye to such considerations, they cannot foresee how soon it may turn against them. Such attempts have usually answered a very short lived purpose.

I, Sir, protest—utterly protest—against the inequality of your representative scheme. It is iniquitous in principle. It

never can be reconciled to the good sense of the people. When we say to a town, having 1500 inhabitants, you shall have one representative; and, to a town adjoining it, containing 3999 inhabitants, you shall have but one, what will the people say? Can they understand such a principle as this? Sir, it is arbitrary and oppressive. Because of an adventitious circumstance, because a *town line* happens to be a little more extended, so as to have a greater number of inhabitants within it, you will deprive its inhabitants of an equal representation. We may just as well form large districts—three times as large as would give a single representative; and say to it, because we have made you a large district, you shall be deprived of an equal representation—you shall have but one representative. If it be an object to have but one representative elected by any one body of men, divide your large towns by parochial lines or otherwise. But do not deprive them of their equal rights.

We, Sir, profess to be republicans—and begin our constitution by declaring all men to be born equally free, and to have equal unalienable rights and privileges. And in our apportionment of representatives are furnishing a practical commentary upon this text. By way of illustration of what we mean by equal rights we say to the inhabitants of a large town you have but one third as much right as the inhabitants of a small town. Three men in a large town are but equal to one in a small one.

I beg gentlemen to consider what they are about; and how they establish principles. An erroneous principle will be a two edged sword—it will cut both ways—at present it will injure only the towns that are now large—But it should be remembered that the towns which are now small, are becoming large. They will feel, in their turn, the iniquitous operation of this principle. A time serving policy is not that which should govern the framers of a constitution. Let us look with a single eye to principle—to correct principle—and we shall be in no danger. If we pursue a straight forward course—if we at this time look for nothing but what is fair and honest, we shall be in no danger, now or hereafter. On the other hand no man can see the mischievous effects consequent upon crooked policy.

If we were now to limit the number of representatives to one hundred, and apportion them equally in the State; securing to every individual his equal influence, the people would understand it; and be satisfied. The whole State would then be

districted—All would be served alike and we should hear no complaint. The mongrel system of partly districting and partly not, would excite no jealousies and heart burnings in the small towns; and the large towns would enjoy their equal rights.

Sir, (said Mr. W.) I have, I fear, trespassed too much upon the time of this Convention. My acknowledgments are due for their patient attention. I will not now take up more of their time.

Mr. Holmes said there was a difference of opinion among the members of the Convention, as to the limitation of the number of representatives. On the one hand it is said some are for restricting the number, and on the other, some are for leaving it unlimited. I will offer a scheme which will leave it to the people themselves to determine the question. This amendment will be found afterwards.

Mr. Hobbs had seen no scheme which suited him so well as the report. A part, he thought, might be amended so as to provide that the representation should increase with the population.

Mr. Baldwin, of Mercer. Mr. President—This business of representation seems to involve a great many difficulties. Some gentlemen argue that no mode can be equal and just but that of districting, so that every portion of territory shall have a number of representatives according to their population; others argue that corporate representation is the only system that can give satisfaction to the people at large. How far these different systems are correct, must be left for every man to determine for himself, according to the best light he can obtain on the subject. That a districting system is not equal has generally been granted, by those who have been the framers of former constitutions in the New-England States. It is strenuously argued by gentlemen who live in the large towns, that there is no reason why they should not have a number of representatives in exact proportion to their population; but it appears to me this reasoning is not conclusive; for in the first place, the new towns and plantations are not furnished with men of equal acquirements with the old towns. Gentlemen who have spent the greater part of their lives in study, and especially the study of elocution, and that on purpose to enable them to shine in courts, will generally settle in cities or populous places; the reason is, money is always scarce in these new settlements: there is nothing to induce men of great abilities, especially men of great acquired

abilities, to settle in new and thinly inhabited places : money is the lure.

Now, Sir, I have said it, and am bold to say it again, that one gentleman from Portland has more influence in this Convention, than the whole delegation from Somerset county, which is twenty-nine members. The reason is obvious. The members from country places are mostly farmers ; and they will generally sit from one end of the session to the other without saying a word. Where there is an assemblage of the most brilliant talents and literary accomplishments from all parts of the State, the farmer is loth to expose his ignorance and weakness, and hazard being made the butt of ridicule for his blunders and every day language. And it now and then one dares venture out, and blunder on in his home made, every day, farmer dialect, his only security is confidence. If he has plenty of brass, and a good share of common sense, he may possibly jog on, and hold up his end tolerably well, in a ludicrous manner ; but such instances are rare. For the most part, (and I repeat it with confidence) one man who is master of all the alluring, persuasive, and insinuating charms of eloquence, will carry more sway in a legislative body, than thirty silent members from the country. Now Sir, I think it has been a given point, a settled principle, in forming Constitutions in other States, that the small towns, and thinly settled parts of the State, should have more representatives according to their number, than older and more compact towns. In New-Hampshire, 150 ratable polls, of 21 years of age and upwards, gives one representative ; 450 gives two—300 is the increasing ratio. In the State of Georgia, 3000 souls, including three fifths of the people of color, have two representatives ; 7000 three, 12000 four ; but no county shall ever send more than four, and each county may send one. And even in Old Massachusetts, the Constitution under which we have so long lived, 150 ratable polls of any kind, gives a town one representative ; 225 is the increasing ratio ; and as often as any town can add this number, 225 polls, so often there is an additional representative. But no provision is made for those towns that have less than 150 polls, or for plantations ; they might as well live in Germany, or the island of Otaheite in the South Sea, on account of being any thing the better for representation. We will say the town of Boston is about two miles in length and one in breadth, of course there is two square miles or thereabouts. Let me

propose this one plain question—Suppose six new towns are classed together for the purpose of sending a Representative, these towns are six miles square, making 216 square miles, these towns send one man, the best they can find among them, an honest old farmer, a steady plough-jogger; he attends, sits silent all the session and all the year if he goes, unless he is requested to give his yea or nay. The town of Boston shall send three and they will take care that they are men of information, and the best information, men who have spent their whole lives in study, men who are profound politicians, the most able statesmen, and eloquent orators. The question is who will be the best represented, the two square miles in Boston, or 216 miles in the woods according to their wealth and population? I can see no possible reason why an equal number of representatives should be given to an equal population, unless it be to serve party or local interests.—The old, the rich, the populous towns will after all, on the principles that I have laid down have the balance of influence in their favor. Let the whole be fairly represented; let representation descend to the lowest and most obscure classes of our citizens; they wish to be represented, and it is an indefeasible right of which none ever ought to be deprived. It seems to be the general voice “lessen the representation;” this I believe may be done on principles of equity, so that the present mode of representation may be reduced about three fifths, and in such a manner as not to be too small, nor so large as to be a public burthen, but all fairly represented, all paid out of the public treasury, then all have an equal voice in making laws, all are equally under its control, and all equally share in its protection.

Take the report of your committee, disengaged from the embarrassment of county lines, and the restriction of limited numbers; our constituents will be pleased—our Constitution accepted, and prove a rich and lasting blessing to the inhabitants of Maine

AFTERNOON.—Dr. Rose. Mr. President—As all are offering their projects, I will also offer one. The system of districts might save some part of the expense of legislating, but would it save expense to the people? I think not, since the expense of elections would be greatly increased. He then offered a project, that the Representatives might be chosen as heretofore, until 1824, when it should be left to the people to re-

duce the number, to from 200 to 100, to be apportioned on the counties according to population.

Gen. Chandler's motion to commit the whole subject to a select committee, to digest the various propositions which had been made, and report a new scheme, being still before the Convention—

Judge Bridge said, he had made a motion in the morning, which was not then in order : but the motion *then* under consideration having been withdrawn, he would now, if in order, renew his motion to strike out "two hundred," and insert "three hundred," as the highest limit of the number of Representatives.

Gen. Chandler was willing to give way, so far as to give that motion the preference.

Mr. Usher wished the motion to strike out, to be taken first.

Mr. Holmes and Judge Parris, differed as to the question, whether the motion were divisible.

Judge Bridge declined dividing his motion, and preferred withdrawing it.

Judge Cony begged leave to suggest, whether it would not be proper to begin with the smallest number first.

The question being taken on adopting the motion of Judge Bridge, it passed in the negative, 52 rising in favor, and 160 against it.

Mr. Usher then renewed this motion of yesterday, that the words in the second section, which limited the number of Representatives, should be stricken out. He wished to take the sense of the Convention, whether they would leave the number unlimited, beginning at 1500 inhabitants for one Representative, according to the report of the committee, and following their ratio.

Col. Moody was unwilling a Constitution should go out to the people with an unlimited representation.

The question on Mr. Usher's motion was decided in the negative, 106 being in favor, and 129 against it.

Judge Cony moved, that the section should be so amended, that the number of representatives should be not less than one hundred, nor more than one hundred and fifty. He believed the people expect a limitation of the representation, and that a Constitution providing for it, would be accepted by them.

This motion was lost.

Mr. Whitman. I had the honor of submitting a few remarks

in the morning, and as gentlemen have observed, that I did not offer a substitute, for that part of the report which I would reject, I will now do it. In pursuance of the scheme which I suggested, I will offer an amendment, which is to strike out that part of the second section, and insert the following :—" for the purpose of electing Representatives, each county shall be divided into Districts, consisting of one or more entire towns, comprising contiguous territory, the exterior limits of each of which, if consisting of more than one town, shall be as nearly equidistant from a common centre as may be, and not exceeding nor falling short more than ten *per centum* of the precise number of inhabitants requisite to entitle such district to send one representative. But whenever a district cannot be formed in manner aforesaid, consisting of more towns than one, comprising the number of inhabitants to entitle it to elect one representative, a district may be formed in manner aforesaid, containing the requisite number, or within ten *per centum* more or less thereof, to entitle it to elect a greater number, being as few as practicable, and in no case exceeding five representatives. *Provided however*, that any single town, containing within ten *per centum* more or less, than the requisite number of inhabitants, to entitle it to elect one or more representatives, shall be considered a district for the purpose of electing the corresponding number of representatives. The number of inhabitants in any district entitled to a representative, shall be equivalent, as near as may be, to the product of the whole number of inhabitants in such county, divided by the number of representatives assigned to it."

The question on adopting this amendment was decided in the negative, by 24 only voting in favor.

Mr. Holmes, now brought forward his proposition, which he had offered in the morning—to strike out "two hundred," and insert the following : "and whenever the number of representatives, shall amount to two hundred at the next annual meeting of electors, which shall thereafter happen at every subsequent period of ten years—the people shall give in their votes on the question, whether the number of representatives shall be increased ; and if a majority of votes are in favor thereof, it shall be the duty of the next Legislature thereafter, to increase the number by the rule hereinafter prescribed." If the number should be increased as the population increases, the gentleman will not be so much alarmed at the limitation.

Judge Thacher was pleased with that part of the proposition which left it with the people to decide whether the number of Representatives shall be increased, but he also wished it should be left to them to diminish their number. He thought it ought to be a knife which would cut both ways. He therefore moved to amend the amendment of Mr. Holmes, by inserting the word "diminished."

The motion passed in the affirmative, by 153 to 38.

The question was then taken on adopting Mr. Holmes' amendment, and it passed in the affirmative, 16 only rising against it.

Mr. Millikin, of Frankfort, moved to strike out all the Report relating to the apportionment among the counties.

Gen. Chandler called for the decision upon his motion to commit the several proposals.

Judge Parris said, he wished the question to be decided, whether the Convention will proceed to fix the ratio, or only to limit the numbers of the representatives, and leave the apportionment to the Legislature.

Mr. Holmes hoped the section would not be committed, until the Convention had decided the principles; and then that it be committed to a revising committee, to put the several amendments into form. It would be a great saving of time, to adopt this course.

Judge Green thought the sense of the Convention had better be taken on adopting the section, which would save the necessity of committing.

Gen. Chandler considered it preferable to commit; and said the sense of the Convention, as to the section, might be as well taken on this question as the other.

Judge Thacher was opposed to a commitment.

Mr. Holmes could see no reason for committing, unless for the purpose of going over the same ground to-morrow, which we have gone over to day. And, said he, I hope we shall not waste the time of our constituents, by giving it up to a committee, but that the sense of the Convention will be taken on the principle of the report.

Mr. Dearborn, of Hallowell, was opposed to the commitment, until the question was taken upon the principle of apportionment, or unless special directions should be given to the committee. We have, said Mr. D. already had this subject before a large and highly respectable committee, and it was confidently hoped, that upon this interesting and all important question

of forming a House of Representatives, their labors would have produced some scheme or project, by which a fair and equal representation of the people would be returned to the house. But, Mr. President, have they done it? I answer no. Of all instruments, whet up and sharpened for the purpose of carving and dissecting the State into unequal parts, this—the scheme of the Committee—is the most complete. Mr. D. wished the whole question, in relation to that body which is to hold the purse-strings of the State, to be brought fairly before the Convention, and not be committed until the project reported by the committee was sifted to the bottom.

Mr. D. here went into an examination of the report, stating its unequal and oppressive bearings upon certain towns and districts; and stated that *seventy five thousand* inhabitants would be, by this bill, deprived of a representation in the house. The famous districting bill of the Massachusetts Legislature in 1811, that shook, and almost convulsed the whole Commonwealth to its centre, fell as far short of the present, in point of deformity, as this does short of the rotten borough system of Great Britain.

Will the people of Maine support this? Will not the free voters murmur and complain? I will venture to say they will. And although their murmurings may be still and low at first, it would increase to the voice of thunder at the polls, when the Constitution is before them, and by its rejection make themselves heard at the second session of this Convention.

Judge Thacher observed, that as far as he understood the gentleman on the subject, he strongly suspected the nature and operation of the supposed inequality of representation on account of the fractions was not clearly comprehended. The ground of the objection with the gentleman from Hallowell, was, that *the fractions were not represented*, and that this bore harder on the large, than on the small towns. Now he thought that if the *fact* was looked into, and its natural progress accurately noted, it would turn out that the small towns, not the large ones, would most probably be the greatest sufferers. Because it is notorious, the large commercial towns, and the demi commercial ones, on great rivers, that is, towns partly trading, partly commercial, and partly agricultural, increase much more rapidly than the inland towns that are altogether agricultural. Compare Portland, with the inland agricultural towns in Cumberland; or Bath and Hallowell, with the back country towns, and see which have increased most. Look to the old part of

the State. We there shall find agricultural towns, that for half a century have added but a small number of inhabitants to its population during that lapse of time, while Boston has doubled and trebled its numbers. Portland has probably more than doubled its inhabitants, while many of the inland towns, in the same period, have made only small additions to its inhabitants. And it is a general fact, that while agricultural towns get nearly the complement of inhabitants they will maintain, they must remain for ages without much increase, but seaports will be on a rapid increase. The certain consequence of this state of things then will be, that the *unrepresented fractions*, in the large commercial towns, must be of that duration, because the periods from the time they have inhabitants enough to send one representative, to that of enough to send two, three, &c. will be short, very short, compared with the corresponding periods in the small agricultural towns. Many of the agricultural towns now send one representative, and perhaps have a fraction of three or four hundred besides; and their increase will be so slow, that probably half a century will elapse, before, if ever, they can be entitled to send two. This will never be the case of the large towns, as they are understood in the objection. Look through the United States, and it will be found their increase is constantly in an accelerated ratio to their size compared with smaller ones. Hence he concluded, that since the objection did not come from the agricultural towns, on whom its principle will bear the hardest, if there is any thing in it, the large towns, such as Portland, Bath, Hallowell, and those like them, ought not, or rather cannot, make the objection.

The motion to commit was lost, 191 to 36.

The question on adopting Gen. Wingate's amendment was now taken, and decided against it.

The vote was then put upon adopting the second section, and it passed in the affirmative, 191 being in favor, and 36 against it.

Adjourned.

FRIDAY, OCT. 22.

Sec. 3, Art. 4th, under consideration.

Col. Atherton, of Prospect, submitted a motion to district the whole State, for the choice of Representatives. He was most decidedly opposed to the representation as apportioned by the 3d section, as arbitrary and unequal. It sanctioned a principle which by no means can find a justification in the bill of rights already adopted.

The section provides, that "each town having 1500 inhabitants, shall be entitled to one Representative ; each town having 4000 inhabitants, shall be entitled to two ; and each town having 7500 inhabitants, to three Representatives, and proceeding in the same increasing ratio for every additional Representative." And, "that the Representatives on the first apportionment, shall not be less than 100, nor exceeding 160." Admitting then, (said he) Mr. President, that the present population of the whole District is equal to 300,000, and that the whole number 150, proposed by this part of the report should be elected, then divide the whole population by 1500, and we shall come to this result, that 75,000 of the inhabitants are deprived of their suffrages ; or in other words have no voice whatever in the election of their representatives. He appealed to the Honorable President and the Honorable Members of the Convention, and demanded to know, whether he, or they, or any gentleman on that floor, were prepared to relinquish their rights on this subject ; whether they were ready at this early stage of the new government, to abandon to others their elective franchise ? He trusted this was not the case with any gentleman present, and that they would find their constituents equally tenacious with themselves of this inestimable privilege of freemen. The town he had the honor to represent, was not so materially affected by this measure as many others, yet he did not consider that he was acting for that town only, but for the whole people. Gentlemen had said much about the views and expectations of their constituents—that they would like this measure, or oppose that ; at the same time expressing their apprehensions as to their reception of the Constitution. For himself, he was not disposed to consult either the whims or the caprices of *his* constituents, if they had any, nor did they expect it of him. He felt himself bound to exercise his soundest discretion and intelligence for their best interests. He had however taken pains to ascertain their opinions on this subject, and he believed he could safely assert, that they were generally in favor of a reduced representation, thereby saving to themselves and the new State, a great and unnecessary expense. His constituents were in favor of a just and equal representation apportioned to numbers, and that they would be satisfied with no other. He lamented to say, that he had lived to witness 90,000 of the freemen of Massachusetts, (the militia) under color of the constitution, deprived by almost a single stroke of the pen, of

their "equal rights and privileges." And he warned the Convention to beware how they infringed the rights of the people, at the incipient stages of the new government. After explaining further his views on this interesting subject, and intimating that the only equitable mode which he could suggest, was that of districting and apportioning the representation according to the population of the several counties or districts, he submitted the following amendment :

"Each town shall be entitled to one representative for every 3000 inhabitants, and towns not having 3000 inhabitants, shall be classed as conveniently as may be, into districts containing not less than that number, and each such district shall be entitled to one representative. The number of representatives shall be apportioned to the number of inhabitants of each county ; the counties shall be divided into districts of 3, 6, and 9000, and every such district shall be entitled to one representative for every 3000 inhabitants. *Provided however*, that a district containing more than one town, and entitled to more than one representative, shall not choose both of said representatives from one town."

Judge Bridge. Mr. President—There have been two modes proposed, by which the representation, which it is so desirable to reduce, should be kept down, and both have their advocates. One is, that of districting, by which the number may be fixed, and kept invariably the same. The other is, by adopting a ratio, which is included in the scheme proposed by the committee. I believe, Sir, it will be most expedient to adopt this plan, in preference to any which has been exhibited, and especially that of districts. I have not much confidence in political theories, until I see their application to practice. This has been done in the plan agreed on, by which one hundred and forty-four members will be elected for the first Legislature. And this has been done in the scheme proposed, by the ratio of fifteen hundred, which will give about one hundred and fifty representatives for the first Legislature elected under it. In the county of York, they have been distributed with as much equality as possible, and I presume there will not, in that county, a hand be raised against it. There the population is nearly full, and will not much increase. If any scheme proposed produced much inconvenience to that county, it would be objectionable, because not easily remedied. It is this which makes the evils of life intolerable—the impossibility of removing them.

The Judge then called the attention of the Convention to its operation on the county of York, which he explained, and then proceeded.

Now, Sir, is not this as perfect a representation as it is possible to devise? This gives as nearly as can be, what the other counties will eventually come to. Would you have left them as equal an arrangement by any other scheme?

I think, concluded the Judge, that the system of districting, arises from a disposition to theorise, and not from an attention to the actual condition and situation of things. I think there is no method so equal in operation, as that proposed in the report, and therefore hope the system of districting will not prevail.

Dr. Rose and Mr. Locke, wished the question divided, so as to take the vote on the subject of districting by itself.

The question was put upon that part of the motion which relates to the dividing the State into county districts for the choice of representatives, which motion was negatived, and the amendment did not prevail.

Mr. Allen, of Norridgwock. Mr. President—I understand there are two things to be considered by the Convention. One is, to fix upon a small number of representatives, which must result in districts; the other is a representation of towns. One of these we must adopt, or otherwise we must take a middle course. The one that will accommodate the greatest number of towns, and the largest part of the population, will be most likely to be accepted. I have proposed to retain the report, and reduce the ratio from 1500 to 1200. My object is to prevent the necessity of uniting towns, as is now the case, whose interests are diverse. He then moved to amend the third section by striking out "fifteen," and inserting "twelve."

Judge Bridge. I hope the alteration will not take place. From the best calculations we could make, the number of the first Legislature will be one hundred and fifty. This is a larger number than has generally been expected—or than this Convention would like, if it can conveniently be prevented. Now, Sir, where does the inconvenience which is complained of fall? It will fall upon twenty or thirty towns, which are to be relieved by changing the numbers. But will this inconvenience be lasting? It will not, Sir. They are rapidly increasing, and will soon arrive to the number requisite to entitle them to send an additional representative.

Mr. Holmes said, it is my business to defend the report only

when its principles are attacked. You have limited the first Legislature, from one hundred, to one hundred and fifty, and these additions are to be made according to the increase of population. The Legislature will apportion the numbers between 100 and 150, and if the amount is too small, will raise, and if too large reduce it. I believe that on this principle twelve hundred will give a larger number than is admitted. As the principle now stands, it is immaterial, as your Legislature may increase or diminish the number, and either way it will come to the same result.

Mr. Allen said, if the population is 300,000 and it be equally divided, the number will amount to two hundred, taking fifteen hundred inhabitants for each. And if we estimate what it will be in five years we shall find it will require eighteen hundred inhabitants to elect one.

The motion to strike out 1500 and insert 1200 was lost, 150 to 86.

Mr. Herrick (of B.) Mr. President—The most odious feature in this scheme is the arbitrary mode of classing small towns. This, Sir, is a truly hideous monster that will be productive of great evils in practice. The union of Lewiston and Wales is monstrous; but it is the inevitable result of the system. There are no small towns in that part of the country with which they can be classed. These towns being remote, their inhabitants are strangers, and if it were not so they may have clashing interests, so as to render the privilege to small towns of little or no value. The same incongruity might be pointed out in other places. If small towns are arbitrarily put with large towns, they will have no voice in electing a Representative. But if they are disposed to unite themselves, let them do it, and if not let them receive the right, as may best subserve the convenience or wishes of either, and the difficulty will be removed. In order to make the scheme less objectionable than it now is, I will suggest an amendment by which that part of the section will read; “and any two or more towns or plantations not having 1500 inhabitants each, but where the inhabitants together shall amount to that number, which may voluntarily unite from year to year for that purpose, shall be entitled to one Representative.”

Mr. Baldwin was disposed, if the majority wished for districts, that they should be gratified, but the report was a linsey wolsey texture and neither one thing nor another.

Judge Dana. Mr. President—I am opposed to the amend-

ment offered by the gentleman from B. and prefer the article as reported ; not, Sir, because I belonged to the committee that reported it ; but because the reported articles better secure the equal rights of all the citizens residing in towns and plantations, which must be classed, in order to be represented. The amendment proposes that towns and plantations, to elect a representative must all voluntarily unite into a class or district. This, Sir, will put it into the power of any one town or plantation, however inconsiderable in a representative district, to prevent the others from being represented ; for instance in a class of half a dozen towns and plantations, any one of them containing ten families, refusing to be classed may defeat all the others of the important right of representation. We are told, Sir, by the mover, that when a large and small town are classed together without their consent, that the small one will invariably be defeated of electing their Representative and that the large town will uniformly succeed in electing *their* candidate. This, Sir, is not according to facts ; and experience shews, there always were in all towns a variety of interests—and we may reasonably conclude, that there always *will be* a diversity of interests in every town, either political, personal, religious, or local. The small towns might, and probably would avail themselves of this difference of opinion, and unite with the minority in the large towns, and decide the election in their own favour. The small towns will be apprised of this advantage and will be disposed to improve it, and in this way will secure, at least, their full weight and influence in the election of Representatives.—Again, Sir, this amendment proposes, that the Representative should be chosen by rotation in each town and plantation contained in the class. This would operate unequally and unjustly—a small town of twenty souls, would have its representative as often as one with a thousand, this could neither be just or equal, nor sanctioned by any correct principle. Besides, Sir, in this way, you destroy an important right—You disfranchise the election district—You say to the electors you *may choose* a Representative, but it must not be a *free choice*, he must live neither in this place or that ; but in another—and how often will it happen, that in such a class, there will be some men of stronger claims and superior abilities—who would unite the suffrages of all the electors ? And yet they could not be permitted to choose him ; but must be deprived of a representative or compelled to vote for a man obnoxious to nine tenths of the electors ; before we adopt

a principle of this kind into our Constitution, before we thus infringe the right of suffrage, and mutilate, if not destroy the elective franchise ; before, I say, we engraft into our Constitution a principle fraught with so many evils and inconveniences, I trust we shall examine and consider, and the result will be, that we reject the proposed amendment. I presume, Sir, the power of classing the towns will be exercised by the Legislature in a discreet and judicious manner, and am therefore of opinion it had better be left with them.

Dr. Phelps proposed an amendment a little varied from the one under consideration.

Mr. Neal, of Madison, said the gentleman from Augusta took up the county of York, to shew the equal operation of the scheme proposed by the committee. In that county, (said Mr. N.) every town retains its corporate rights and is fairly and equally represented. I wish, Sir, he had turned his attention to the towns in the interior counties, and looked at the inconvenience they will suffer by this mode of classing. The district in which I live has an extent of seventy five miles and includes Madison, Solon, Bingham, Moscow and Northhill. Our town officers must repair ten or twelve miles to see if there is a choice of a Representative. This is a great burden and inconvenience to towns thus situated. Canaan, Warsaw, Palmyra, St. Albans and Corinna compose another district, the extent of which is *thirty* miles ; and Canaan has been heretofore entitled to a Representative alone. Sir, shall the rich man have his corporate rights preserved and the poor man be subjected to this monstrous inconvenience ? The whole State by this method will completely run into classes, and why should we impose this partial burthen upon those least able to bear it ? I hope, Sir, it will not be adopted.

Mr. Holmes. Mr. President—I am not disposed to adhere to a provision merely because it was reported by the committee—I trust the report will and ought to be amended. It is apprehended that the rights of the people in the small towns will be impaired. I hope we shall be able to cure the evil of which the gentleman so justly complains and which will expire with the first Legislature. I should be willing to leave it to the first Legislature to regulate the representation of these towns. There would be an equal difficulty in classing small towns. The most populous would have the power of selecting the candidate. On the other hand, should the choice be in each town in the class

in rotation, the large or populous, would not have equal rights with the small. To remedy this inconvenience, if it can be remedied, I would suggest an amendment that the representative shall not be selected from the same town or plantation in any class for more than two terms in succession.

Mr. Vance was satisfied with the report. In the new counties (said he) the small towns will have an advantage they never had before, and with this they must take the disadvantages. The district in which I live, in the county of Washington, is fifty-one miles in extent, yet we are perfectly satisfied. We are sensible we cannot have the right of being represented without its inconveniences. There is not one district in the State so large, or which will increase so fast, and we have now from twenty-one to twenty three hundred inhabitants. Yet we are satisfied and united throughout the county, and we had rather the number should be increased to three thousand. I hope, Sir, the motion will not prevail.

Mr. Herrick's amendment did not obtain.

Judge Bridge observed, that perhaps no better evidence could be had of the impression which the plan had made, than the representations of the delegates from the towns to be classed; and suggested that if they could meet and agree upon a mode which would be satisfactory and accommodate them, it would be best to adopt it.

Mr. Neal (of E.) hoped the report would pass, as he had no doubt it was the best plan that could be adopted.

Mr. Whitman said he should prefer the scheme which he had the honor to submit for consideration yesterday; as thereby an equality of representation would, to the utmost practicable degree, be secured—but he had seen that it would not be accepted by the Convention. The idea of districting, by classing the towns, seems to be extremely odious to many. Yet, though we are not about to do it generally, we are adopting it partially; and, I suppose, this will finally be considered as adopting about a fair medium between the extremes of opinion in relation to this subject. We shall secure the representation by towns in part. This is certainly a mongrel system. But I rejoice to see districting even partially adopted. In this way the people will find, by experience, that it will be best to adopt it generally; and may have the representation reduced, or the constitution altered for that purpose.

The gentlemen from small towns complain much of being

aggrieved by this regulation—their towns are obliged to be classed; while the large towns are not. I have heard from them no complaint that the large towns are injured—that *they* are to be deprived of the right of equal representation—a right which the God of nature designed them. This is a grievance which the small towns do not feel. And it is an old saying, and a true one, that “We can bear other people’s misfortunes better than our own.” The small towns cannot endure the little inconveniences resulting from a classification—but they can concur, without any sensibility upon the subject, in depriving the large towns of their equal rights.

It is said that the joining the large and small towns in the same district will enable the larger of the two to exercise the whole power.—But in practice it will not, I am confident, be found to be the case. There are always divisions originating in party spirit, or in the attachment to individuals, or from local considerations, which will enable the small towns, by a kind of bargain with a minority in the large towns, to secure, at least, a proportional share of influence. If the town of Portland were united with Cape Elizabeth, such are and ever will be the divisions, of one kind or other, existing in this town, that Cape Elizabeth would always be enabled to have its influence.

In every proposition that can be made, in relation to a public measure, a possible case may be supposed, and may even be made to seem to be a probable case, in which the measure will operate inconveniently. We not unfrequently, in such cases, frighten ourselves with bugbears and spectres out of the adoption of the most valuable propositions. Experience has, in millions of instances, proved the miserable fallacy of our political visions. I do believe that none of the predicted evils would result from a general classification.

Judge Thatcher could not see the justice of the remarks of the gentleman from Augusta, relative to classing of small towns. The Constitution, said the Judge, gives a right to those who before had not the right to send a representative. Now if we have so much alarm and difficulty, in classing two or three small towns which had no right, we ought to be satisfied what would be the effect of classing towns which had a right, and that a general districting system could never be carried into effect.

Dr. Rose said, it was not the towns which had not heretofore been represented, but those which had had the right of sending a representative, which complain. There are many such towns

in different parts of the State. We ought, Sir, to take the facts as they are, and so far as I am acquainted, the fact is otherwise than has been stated. If you allow towns voluntarily to come together, you get over difficulties, which if they are compelled to unite, will be the cause of infinite mischief.

Judge Thacher said, he sometimes was almost led to believe, that objections were put into the mouths of the people; and they were represented here as saying, what they never thought of, much less would eventually say, on reading the Constitution that will be sent out for their consideration. The Convention are now endeavoring to devise an equal system of representation; and it being thought expedient to prefer town representation, as far as it can be without doing general injustice, it leaves a number of small towns and plantations, that have not individually inhabitants enough, that is, fifteen hundred, to entitle them each to a representative. What then shall be done? They must be classed, or not represented. Classing two or more to make up the number of fifteen hundred inhabitants into an imperfect corporation, merely for the purpose of investing them with the right to elect a representative, cannot be a subject of complaint. This is not taking away a right they before were entitled to: we are about giving them a new right. He said he did not understand the objection was made by the towns that heretofore sent one, but not having fifteen hundred inhabitants now, will not be entitled to send a representative under the new State; for these seemed willing that fifteen hundred inhabitants, instead of one hundred and fifty qualified voters, should be the standard to entitle a town to an entire representation. When the still smaller towns and plantations see what a sacrifice the larger ones make, he thought it was doing their feelings and good sense injustice, to suppose they would object to a classification. And especially as this *classing arrangement* is only to continue till the small towns and plantations shall successively contain the number of fifteen hundred inhabitants. When that becomes a fact, they will each take the rank of a town. He seemed to doubt the exaggerated representations that had been made by some of the members of the Convention, as to the *angry, quarrelsome disposition* of the people of the small towns and plantations adjoining one another. He felt very confident they were misrepresented; and had no doubt, but when they were made acquainted with the principles adopted by the Convention and the motives they acted upon, they would cheer-

fully receive and enjoy the benefit intended them; and meet regularly according to the mode prescribed to elect their representative, and that there would be peace and harmony among them all.

Mr. Holmes said, as there was not so much peace and harmony produced by his motion as he anticipated, he would beg leave to withdraw it.

Motion withdrawn.

Mr. Hobbs, of Waterborough, said, he hoped that politics would never be in fashion again, but we do not know what the Legislature might do, if they have the power; and to prevent evils which might otherwise arise, would move to insert "*and plantations*," after "*towns*," (which were not in the report.)

Mr. Holmes moved that it should be so amended as to read, "such plantations as are duly organized by law;"—which amendment was adopted.

After some further conversation relative to classing towns, Mr. Abbot, of Castine, moved after the word apportionment, to strike out "it shall contain that number," and to insert "the House of Representatives shall contain two hundred members."

This amendment passed.

Mr. Emery, of Portland, moved to amend the third section by striking out the word "three," and inserting "five," so as to give towns which have 7500 inhabitants, the right to elect five representatives. We have undoubtedly felt very much alive to the representations of the plantations and towns which have been classed. But, Sir, the voice of the people throughout the country has been, that the representation *shall* be lessened; when they think they shall be relieved from the burthen of a large representation. I ask whether the demand shall be complied with? If they have not a sufficient answer that we must yield something—we have relinquished prejudices of forty years standing, that the towns should be obliged to support; given negroes a right we deny students at college.

This being approbated, will they not say we have no objection to the concession you have made in classing the small towns? But how came you to yield to large towns the right to send five representatives? They live near together; we may say it was population, not territory that was to be represented. There was not to be a reduction without a sacrifice. True we live in the country, but are we not the strength and vigor? Do we not find the power of enlisting prejudices? Do you not find

that when it is necessary to carry any measures into effect, you have recourse to the country? It is not from fear of the influence of towns but that they want to get more power. Is it not right that they should concede to an equal number the right they enjoy? If it is equality, which is the only principle—is it not right for them to yield to the large towns what has been yielded to others?—Motion lost.

Mr. Parsons (of E.) moved to insert at the end of this section “and any two towns having a sufficient number of inhabitants to elect one Representative, shall be joined together with the privilege of electing a Representative alternately; beginning with the oldest town or by an agreement of both towns may jointly elect one annually.”

Judge Dana. Mr. President—I believe the people are more likely to do right when left to themselves, than when they are shackled. If you say the towns shall choose from a particular town, you take a right from them and compel them to choose a man whom they would not have chosen and destroy the right of election. They will best regulate themselves, and I hope we shall leave it in that manner.

Dr. Rose was in favor of leaving it to the towns to exercise the right if they pleased and to increase the ratio.

The amendment was negatived 135 to 27.

Mr. Locke said, we hear complaints from towns which had the right to send one Representative, and also from Portland and other large towns. Sir, I am contented to bear my portion of the inconvenience, and hope others will feel the same disposition. Let them remember that “united we stand, divided we fall.” For my part I hope, Sir, the report will be accepted, yea, that it will be accepted unanimously.

The question was then taken on adopting the 3d section as amended and decided in the affirmative, 203 rising in favor, and 41 against it.

Section 4th was taken up.

A motion was made to amend this section in such a manner as to require a years residence of the representative in the town or class for which he is elected. This motion was lost.

An amendment was made, on motion of Mr. Holmes, which requires the person elected “to have been a citizen of the United States for five years.”

Mr. Locke moved an amendment, to strike out “one” and insert “five,” so as to require the age of the representative to be *twenty-five*.

Judge Thacher said he approved of the motion of his friend from Chesterville. It always appeared to him very proper that before a person is called upon to perform important business of any kind he should have allowed him time and opportunity to qualify himself for the station. This was the common dictate of the most common sense. And in the most common arts of life the practice is almost universally adopted. Who undertake to practice physic or Surgery without a regular course of studies, and as often as possible, making a visitation to foreign countries to observe the course of practice in great hospitals where they can see the greatest variety of diseases and the modes of cure? Do we not see institutions for theology, and academies for the study of elementary science?—Does a man undertake to teach a common school till he has been to school himself? The carpenter, the smith and the shoe-maker go through a regular apprenticeship. But the Legislator, combining all other arts and sciences, is to be considered as self-taught. The mere lawyer spends his four years at college, and then three more in a counsellor's office before he is considered qualified to manage causes at an inferior court. Of all the arts in civilized society none is of so much importance as that of making laws for a nation; none requires a more extensive knowledge of particular objects or a greater power of combination—When and how then is a boy just from under family government, with his freedom suit, stiff as buckram on his back, to acquire this vastly extensive knowledge of legislation? They ought to have some acquaintance with mankind and the ordinary manner of doing business in town affairs. He did not like to see a legislature filled with young men—and men of no experience. There would be no want of men over the age of twenty five and short of the age of imbecility through years or bodily infirmity, to fill the future legislatures of the state.

He thought there was a fitness in the nature of things for a young person be he ever so active, or ever so great a scholar to have some experience and an opportunity to acquire it, and not the moment he arrives at the age of twenty one be introduced into the great council of the nation. And by adopting the amendment, he thought, it would be received as a *constitutional expression of the people that such was their reasonable expectations.*

Judge Parria was decidedly opposed to the amendment. I do not (said he) apprehend any danger from admitting young

men into the legislature. The people will sufficiently discriminate and will no doubt decide correctly who are suitable persons to represent them. When young men have been brought forward into the legislature, it has been for their merit. I have been in the senate of Massachusetts and I have seen a man there less than twenty five years of age, the most active man at that board. Instead of being brought too soon into public life, young men have been kept down merely because they were young men. If they are young men of genius, they ought to be encouraged. It is a narrow policy to exclude them. I see no danger whatever in trusting the people. They will decide correctly in this particular. But what is the danger? that young men will be kept down and cramped. Sir, I am for encouraging them and bringing them early into public life, and letting them go through a state of probation. I know a man in the largest State not twenty one, who is a most prominent member.

Judge Cony. I hope, Sir, the motion will be sustained. It is not a new principle to require a certain age before admitting men to public stations. An amendment which requires a representative to be twenty-five years old, has my entire approbation; and I hope no one will be allowed a seat in the senate until he is thirty years of age. I believe it will best accord with the public wishes. Very few will be excluded, because few under that age will be candidates for that office. If, Sir, it requires several years to qualify a man for a profession, it must surely require as much to initiate him into the difficult science of government.

Mr. Holmes. Mr. President—I remember to have heard that when a certain member of Congress was asked by the speaker, *if he was of age*, his reply was “ask my constituents that question.”

I see no reason, Sir, why we should not trust the people to elect, if they would, a youth of twenty one. Where is the danger? There are, to be sure, two periods of a man's life in which he is not fit to be entrusted with legislation, two periods of infancy—a first and second childhood. Why should we limit the people as to one of these and not the other? If there is any period of a man's life in which he is virtuous, it is his youth. He is not, then, taught in the intrigues and vices of the world. His passions are warm and generous, his affections pure and his honour unsullied. It is in this period that you may expect disinterested friendship and ardent patriotism.

But if man in passing through a world of wickedness does not become contaminated by examples, he nevertheless brings with him habits and prejudices which are too often most powerful and pernicious, after the reasoning faculties are decayed. It is however, with much pleasure, that I yield that the venerable gentlemen who supported this amendment are honourable exceptions. They bear testimony that wisdom is sometimes united with experience and virtue at an advanced age. But these gentlemen should be aware that their cases are more impressive for being singular.

Sir, I would infinitely prefer excluding *batchelors*. I consider a batchelor as rather a useless animal. Dr. Franklin compared him to the odd half of a pair scissors. Were we to exclude men from public employment, until they were *married*, the provision would be *politic*, and the constitution would be *popular*.

But, Sir, I never would discourage our young men from an early attention to the duties of the offices of state. The people will never elect them when young, until they discover that they are preeminently qualified. It is not in the number of years that wisdom consists. The young may be worthy, and the old depraved. "For wisdom is the gray hairs of a man and an unspotted life is old age."

Mr. Locke said he had seen difficulty in towns from electing young men into office, but was not disposed to press the subject and would *withdraw the motion*.

Mr. Baldwin said he did not rise for the sake of popularity, but from a sense of duty. He hoped no person would think he had an antipathy or prepossession against the youth of the State merely on account of their youth, as no one more strongly felt the tender endearing ties of parental affection, having a large family himself, who he hoped would become useful members of church and State; but he hoped they would be too modest to accept a seat in the legislature at the age of twenty one. What I (interrogated Mr. B) are we under the necessity of confiding the affairs of our new State to beardless boys—before they have any knowledge of the world or real acquaintance with mankind? It was urged that the instances would be rare and their constituents the best judges of their qualifications. But if one was admitted, so might any member; and he appealed to the hon. gentlemen of the Convention if they would trust their property on the ocean without an experienced pilot? And, said he,

does sound policy dictate, that the citizens of Maine should put their political interests afloat and confide them to our youth who have just left the cradle? The maxim of the wise man is very apposite on this occasion, "with the aged is wisdom; and in the length of days understanding." Mr. B. concluded by renewing the motion which had been withdrawn.

Mr. Vance said the argument of the gentleman went to deprive the public of the benefit of the genius and talents of the country. What, he asked, would Washington have been, if young men had been exiled from public stations. His greatness was predicted at an early period of his life. He also alluded to the case of the younger Pitt, who at the age of twenty one swayed the councils of Great Britain, with distinguished ability.

The motion was negatived, 144 to 46.

Mr. Virgin, of Ruunford, moved an amendment which should make a residence of three months prior to his election, in the town or class for which he is elected, a necessary qualification of a representative; which was adopted.

Section 4 then passed as amended.

Section 5, underwent some slight amendments.

Dr. Rose moved to insert "*electing*" in the *proviso*, at the end of the section, which would enable the legislature to alter the *mode of electing* representatives in classes:—which was adopted without debate.

Mr. Holmes said, the amendment would alter the whole system and give the legislature the power to alter the mode of electing, as to time, notice, &c. and moved a reconsideration.

Judge Bridge approved the object but thought it had better be done by introducing a provision to enable towns and plantations to meet together or otherwise if more convenient.

Judge Dana hoped the vote would be reconsidered.

Mr. Shepley thought it would not do to make the provision required, since the meetings for the choice of governor and senators was to be held on the same day.

The vote to adopt the amendment was reconsidered.

Mr. Rice, of Wiscasset, proposed to obviate the difficulty by authorizing the legislature to enable the inhabitants of towns and plantations in the several classes to meet in one town or plantation on the application of all the towns and plantations within the class to vote for governor &c. but no vote was taken.

Section 5, then passed as amended nearly unanimously.

The remaining sections, 6th, 7th and 8th passed without division.

ARTICLE IV.—*Part Second.* SENATE.

AFTERNOON.—Judge Cony. moved to amend the first section so that it should begin, "The Senate shall consist of thirty-two members," at which number he wished the Senate permanently established. The provision of the Constitution of Massachusetts fixing the number of Senators at forty, was predicated on the supposition that nine members should be elected from that body, to constitute the Council, which would leave the number of thirty-one in the Senate. And from thirty-one to thirty three or four, was the number of members, which for many years, transacted the business in the Senate of Massachusetts. This was considered a suitable number for the whole State; and, continued the Judge, it may be so considered in this State. The additional expence is too inconsiderable to weigh any thing in this question. This number would be more likely, coming from the different parts of the State, to understand their interests. It would be easy to alter the apportionment to correspond to this alteration of their number. The Judge said, he should wish the term of their service to be two years, but would not insist on the question being taken at the same time.

Gen. Wingate observed, that if the senate was to be apportioned by this number, it could not be equally apportioned among the counties.

Mr. Holmes. There is the same reason that the members of the senate should gradually increase as that the house of representatives should be progressive. The present number is not now too small, but it may be so when the country is much increased. I think twenty three is the best number to begin with, and it may hereafter be necessary to increase it to thirty one, or more. There are only two states in the Union which have permanently fixed the number of their senate.

Gen. Chandler said, that the subject was very fully discussed in the committee—the result was, that a majority considered twenty three was the most proper number. He thought any alteration would derange the whole system, as a proportion was intended to be preserved between the house and the senate.

Judge Thacher said, he knew no data by which it could be proved or inferred that any particular number was that number which ought to be preferred to some other number. The same

question about numbers had been debated in fixing the house of representatives. He thought he had shewn it was arbitrary ; and might vary considerably, without any specific injury arising from it to the community—But there was one fact that ought not to be lost sight of, for it seemed to be in the mouth of every member of the Convention, when they first came together, and that was, let there be *a small house of representatives and senate* compared to the legislature of Massachusetts—and the members might pitch arbitrary or different numbers, and talk about their respective preferableness as long as they pleased, after all they must come back to experience as the best touchstone to test their arguments—and, for his part, his fears were that, notwithstanding the general voice of the people was in favor of a small number, the Convention would finally fix on too large a one—he wished gentlemen to look over the constitutions, and see what other states had done on this particular subject—the United States commenced operations with a senate of only twenty six members ; with a capacity of increase of two members by the accession of every new State to the Union. One would suppose, if twenty six senators were adequate to the functions of a senate for the whole nation, that thirty two would be too large for a thirteenth part of the nation. By the theory of the senate of Massachusetts, the senate might consist of no more than thirty one senators—and when party spirit had occasioned it to rise to forty or near that number, it was looked upon rather a grievance than a blessing. He added, that a survey of the constitutions of the New England States, and some of them had been recently revised, would lead to a conclusion against the number proposed. New-Hampshire had but thirteen members in their senate ; Rhode-Island, if he was not mistaken, had but ten or eleven ; Connecticut twelve—as to Vermont, he knew but little about their government, or its administration, but he thought those he had mentioned ought to weigh in favor of the smallest number, as he had never heard that any of those States complained that their senates were too small. He would only say, he was just informed that the senate of New-York was composed of but twenty four freeholders—a State that now contains nearly one million of people, and probably would increase equal to any state in the Union. He could see no reason why thirty two should be preferred to twenty two or three, with which he should be satisfied—but he would rather diminish that number than increase it--the senators are not

considered as the immediate representatives of the people ; but the house of representatives ; and they were fully numerous enough to take care of all local interests. The senate is rather a compact body of wisdom and reason, not of passion and feelings, as some hold out the house to be—but such was not his creed—nothing would be more unjust than to take from one part of the people the right to an equal voice in the house, and then compel them to pay an equal part of the expence. He observed, that a good deal had been said on one side and on the other about the expence—but this made no part of his objection, provided it could be clearly made to appear that thirty two members would be better than twenty two or three. Our resources are ample, and will always be found sufficient for all the purposes of government without any oppression or inconvenience to the people. Yet if we can, as well as not, save the expense of a single member, though it be but little, he wished it to be done.

The motion was lost, and the section passed without amendment.

On the second section being read, Mr. Holmes observed, that the question had been put, whether the committee took into consideration the basis of the senate ? and why they preferred *population* rather than *property* ? The answer to the first question is that we did. The answer to the other is equally concise—the reason why we established it upon population was, because we saw no good reason to do it otherwise.

Mr. Holmes then moved, an amendment of this section, by striking out the words “ one for every increase of eight members ” and inserting “ *until they shall amount to thirty one according to the increase* ” in the house of representatives—which was accepted.

Mr. Dearborn moved to strike out the word “ three ” and insert “ *four*,” that the Senate might consist of twenty four, in order, as he stated, that an additional Senator might be allowed to the county of Kennebeck.

Mr. Holmes explained the reasons which induced the committee to apportion the senators according to the report. He said, it was impossible to prevent fractions—that there was indeed a large fraction, (according to their estimate of about 5000) in Kennebeck ; but there was also a fraction of about the same amount the other way, in the county of Somerset, and that Kennebeck had a fraction over its representation.

Mr. Dearborn, said what was given to Somerset, did not

help Kennebeck—and that York was fully represented in the senate and house. Mr. D. could not understand what there was in the population, soil, or atmosphere of York, that entitled it to any preponderance over the other three large counties—he did not wish it to be winked out of sight, that his object in making the motion, was to add another senator to Kennebeck. The county of Kennebeck, said Mr. D. is entitled most assuredly to as many senators as York, whether we predicated the representation in the senate upon population or property; we have already (he observed,) witnessed an unequal distribution of Representatives in one branch of the legislature, and hoped we should at least guard the other:—while the committee were satisfied with carving and dissecting the county of Kennebeck and coupling and classing its towns, not a single town in York is classed with another—and how was this accomplished without a dereliction from the principles of the report? He called on the chairman to answer, whether Newfield, Cornish, or Alfred, contained fifteen hundred inhabitants, or within three hundred of that number? and if not, why spread that sunshine of favor over York, by giving them each a representative? He hoped the Convention would take this subject into serious consideration.

Mr. Holmes made some further remarks in explanation.

Gen. Chandler said, in the committee it was decided by a majority, that the grand divisions of the state should be regarded in apportioning the representation—that the representatives should first be apportioned on the counties, and that the senators should also be apportioned to the counties, and for this purpose a subcommittee was appointed to apportion them. If their calculation was correct he could see no good reason for an alteration, though a very equal apportionment could not be made and preserve county lines.

Mr. Dearborn said, there was no county which had so large a fraction as Kennebeck, and called on the committee for further information on the subject.

Mr. Deane said, the senate was apportioned as equally as it could be and preserve county lines. The committee he said, took into consideration taxes, population, polls, &c. The only question which was made with us was whether we should place Kennebeck and Somerset together, or not.

The motion was negatived, and the Section passed as amended.

Mr. Dearborn gave notice that, on Monday next, he should move for a reconsideration of the vote adopting the 2d and 3d sections of article 4th, relating to representation.

Sections 3d, 4th and 5th, passed without amendment or discussion.

Mr Holmes moved to insert, in the 6th section, the provision that Senators shall be twenty-five years of age, which was adopted, and the section as amended, passed ; and also sections 7 and 8.

ARTICLE IV.—*Part Third.* LEGISLATIVE POWERS.

Six sections passed with a slight amendment of the 2d.

Mr. Holmes moved to strike out the latter part of section 7, with a view of leaving it to the discretion of the Legislature, to establish the mode of compensating the members of the Legislature.

Rev. Mr. Hooper wished to have the pay established by the Constitution. He said, we were now setting out in the world, and it was necessary to practise economy, and thought it best to fix the pay of the first Governor, the Senators and Representatives. He would fix their pay at the same it had been heretofore. It would give satisfaction to have it done, for it had been held out to the people, that the expenses of the Government would be lessened.

Mr Holmes. I hope we shall not have any blemish of this kind in our Constitution. Forty years' experience, in Massachusetts, has proved that there is no risk in trusting the Legislature to establish their own compensation. Can we with safety fix the compensation of any of the officers of the government in the Constitution ? What is an adequate sum to day, may be too much or too little to-morrow. This is the business of legislation, and it may be more safely trusted to the representatives, who expecting to be re-elected, will take care not to offend their constituents. Experience has lately proved, that such offences are not easily pardoned.

Mr. Emery. I am opposed to striking out part of this section. I believe it does not prescribe any thing unreasonable. The expenses of travelling to and from the Legislature, ought to be paid out of the public chest. I do not know but the committee have instructed the chairman to make this motion. But I am better satisfied with it, as it is, than to have it withdrawn. I can see no reason for the alteration. Is it unreasonable that the members of the House of Representatives, who shall seasona-

bly attend a session of the Legislature, and do not depart therefrom without leave, should have their expenses in travelling thereto and from, once in a session, paid by the State out of the public Treasury? Does this section contain any thing more than this, even by implication? I really can see no ambiguity; I can see nothing unreasonable or objectionable.

Gen. Chandler said, the gentleman from Portland must be mistaken in his suggestion. He presumed it was not a proposition of the Committee. The object was to leave it for the Legislature to settle the mode of compensation of the members.

Judge Thacher. I am always sorry to observe a jealousy of the Legislature. I have no such jealousy. We are entrusted to make laws for the latest generation. The two branches of Legislature, will have all legislative power, excepting where restrained, and I think we had better leave it wholly with them.

Col. Moody hoped Mr. Holmes' amendment would not take place. It might deter some towns from sending representatives which would send if they could have their travel paid at the public expense. The Legislature should be convened at the expense of the State. Is there, he asked, any thing unfair in this? The Legislature should fix the pay, but not say how it shall be had. If it was a wise provision to convene the Legislature in Massachusetts at the expense of the State, why should we alter it?

Mr. Holmes. We agree in our object. My object is, that at all events, the members of the House shall be paid for their travel out of the public chest; and not to say they shall be thus paid for their attendance. To remove the objections, and to satisfy this Convention that I do mean the members shall be paid for their travel out of the treasury, I will vary the motion, so as to leave it to the Legislature to settle the mode of paying for their attendance.

Mr. Wallingford wished to have the mode of payment fixed, and to have it taken out of the State Treasury; and hoped the payment for their attendance would be left to the Legislature.

SATURDAY, OCT. 23.

The committee which was appointed to report what Acts, Resolves, and other Documents, it might be necessary to obtain from the office of the Secretary of the State, and of the United States, reported a resolve, which was ordered to lie on the table until Monday next.

The consideration of the motion to strike out that part of Section 7, Art. 4, part 3d. relating to payment of Representatives, was resumed.

Judge Dana—Mr. President, I hope, Sir, the motion of the honorable gentleman from Alfred, to strike out a part, and I conceive, an important part of this section, will not prevail: if no alteration has taken place, in the number and manner of choosing representatives (in my absence from the convention,) I am satisfied that their travelling expenses *should be paid* from the Treasury of the State; and their attendance from the towns or districts they represent. That their travel should be so paid is just and equal; otherwise a town or district, distant from the seat of government, must pay the travel of their members all that distance, while those near, will incur no expense of that kind. To me therefore it is manifestly right, that the expenses of travelling, of all the representatives should be equalized upon, and borne by, the whole state. If this is not the case, small towns and districts, and those at a distance, will be deterred from sending representatives, on account of the travelling expenses; and there may be a difficulty in proportioning these expenses on the towns and plantations composing a district; but I am by no means prepared to say that their *attendance* should be paid from the public chest. If their number was sufficiently diminished it might be proper to pay their attendance, as well as travel, from the funds of the State; but while we indulge the *small towns* and *plantations* with the privilege of sending representatives, by diminishing the representation of *large ones*, would it be right to compel the *latter* to pay for this indulgence given to the *former*? Nothing could be more unjust and unequal. The maxim, "that taxation and representation should go together," is a wise one, growing out of experience, and founded in the nature of things, and a departure from this salutary and antient rule, has always created inquietude and disorder, and sometimes the most fatal consequences—we therefore ought cautiously to adhere to it. If we pay the attendance, as well as travel from the treasury, the result will inevitably be, that towns and districts will swell the number of their representatives to the extent, which will make an unwieldly, and I may add, unsafe representation; and create an unnecessary and an enormous expence to the state; and what is much to be regretted, those towns *most curtailed* in their representation, will be *most severely taxed*, to defray this needless and unequal expense;

whereas if each town and district, were to pay the attendance of their own representatives it would be a salutary check upon them, and keep our representation within suitable bounds. While therefore, Sir, I would pay the *travelling* expenses of all the representatives from the State treasury, I would require of towns and districts to pay the attendance of their own members.

Mr. Baldwin said, it was generally considered a grievance for the towns to pay their representatives for their attendance, and he thought they ought to be paid out of the public treasury.

Mr. Herrick, of B. moved, after the words "the senators and representatives shall receive" to insert "*out of the treasury of the State*" such compensation, &c. and to erase the last sentence of the section.

Mr. Herrick observed, that clamorous as he had been on the subject of representation, and unsuccessful as he had been in his efforts to get amendments introduced, which would, in his opinion, make the system better comport with the true interests of the people; he did not despair of obtaining an amendment in this part, which would remedy in a great measure, the imperfections of the other.

I am, he observed, in favor of making a permanent provision in the constitution, for the payment of the whole expense of representation out of the publick treasury, and will offer my reasons:—The first is, the very laconic one offered yesterday by the gentleman from Altred, for apportioning the senators according to the population—"that there is no good reason why it should be otherwise." A wrong impression seems to be made on the minds of gentlemen, that the services of a representative are to be confined to his own particular constituents, that his eye must be single to the interests of his own town, regardless of every other consideration. But, sir, the representative of a town is as much the servant of the whole state, as the Governor is. If he is a part of the whole, why should not the whole pay him? It is objected that this mode does injustice to the large towns, because they pay heavy taxes in proportion to their representation; that the town of Portland, for instance, pays one third of the taxes of the county of Cumberland, while she obtains but one eighth of the representation. I cannot very distinctly see the force of the objection. How happens it, sir, that Portland is thus oppressed with taxes? It is the consequence of her great wealth. It is a maxim with me, that a government, which provides well for the poor, is good enough for the rich. The mode

of paying the expense of representation out of the treasury of the State, is the practical effect of the maxim. It is putting the burden where it should be—on the shoulders of the strong.

The inequality of representation complained of, results from the necessity of the case. If each town must pay its own representatives, it may fairly be inferred that each town has a right to decide, as a corporate body, whether it will elect a representative or not. How then, sir, are you assured that a provision in another part of your constitution will be carried into effect, *that the house of representatives shall consist of at least one hundred members*? So many towns, to avoid the expense, may vote not to elect, that that number may not be elected. In another part of your constitution, you have provided that the Legislature may compel absent members to attend the Legislature. By what means, sir, will you compel the attendance of members, who have never been elected? How will you avoid confusion in your classes, as you are pleased to call them? Several towns composing one class, have their meeting at the same time; one town votes not to elect, because it sees no prospect of deriving advantages enough from representation, to pay the expense. Another town votes to elect, and casts its votes; a representative is elected of course, and who pays the expenses? Divest your constitution, sir, of its inconsistencies, before you offer it to the people for adoption. Let us for a moment, consider the consequences of the old system of Massachusetts; that a town may decide whether it will elect a representative or not—whether disgraceful riots have not grown out of it, besides other mischiefs. Great towns are always wealthy; and will almost always exercise their full right of representation, because the “burden is light” on them, and they generally have an important point to carry; while the poor and unambitious town in the country, not considering that the whole is interested in every measure of the Legislature, goes into the inquiry, whether any business will probably come before the Legislature *particularly* interesting to that town: except in times of great party excitement, the question is pretty generally decided in the negative, and no representative is elected. Several towns in the same vicinity, make the same decision, and the voice of a great section of the State is not heard in the legislature. This is an evil, sir, but if it were the only one resulting from the system, it would be more tolerable. Mr. H. here alluded to the evil consequences of the system heretofore practised. And re-

marked, that we ought to guard against the recurrence of such evils. We have very carefully guarded against some, which never did, and probably never would occur. Is it not more important to guard against those which have occurred, and which political jugglers may cause again to recur ?

Let me admonish you then, sir, as you value the tranquillity and happiness of the community ; as you would establish for the people of your State, a government of laws and not of men : stop up every avenue by which the influence of faction may assail your councils.

Mr. Holmes said it always gave him pleasure to hear the gentleman from Bowdoinham, because he never spoke unless he had something to say, and always left off when he had done. His object, he said, was precisely that of the gentleman. I wish to take the sense of the Convention, as to the manner of paying the members. In my opinion they should be paid from the public chest, and that this is the only correct way. I am opposed to having unnecessary discretion confined to the legislature.

Judge Thacher.—He thought the variety of opinions rose from the inequality of representation ; or rather from the unequal mode of elections. If the mode of election were more equal, that is, if the division of the towns was as equal as the appropriation of Representatives is upon the several counties, he should be in favor of paying the members of the legislature out of the public treasury. But until this should be the case by an alteration in the mode of election by towns, it would be wrong to pay the representatives out of the treasury. Upon this principle every small town, and every class of plantations would most punctually send a representative, because the expense would be equally borne by the large towns. Biddeford has just or near 1500 inhabitants, while Saco has nearly double that number ; and why should the latter pay part of the representative of the former ? But this flows from the system of election by towns. Let the mode of election be as equal as the representation on counties, and there will be no disagreement on this ground. Nothing would be more unjust than to take from one part of the people the right to an equal voice in the house, and then compel them to pay an equal part of the expence. He observed that some gentleman had complained of a great waste of time in debating on this and some other questions, because it necessarily drew after it a heavy expense on the peo-

ple! To which he must reply, that he saw nothing like a waste of time—Questions that had thrown other communities and assemblies into great commotion and agitation had been here discussed with uncommon coolness and harmony; there had been but very little of feeling, except when some topic of a *religious nature* was debated, and the *devotion* of a few seemed to kindle into a fever pulse. For his part he was pleased to find the general course of debate so pacific, and as to the time spent, it was not to be named. The people expected the Convention would examine, every subject brought before them, and they knew it must consume considerable time. As to the pay of the travel of the representatives he was satisfied it ought to be taken out of the treasury—he had never heard that complained of under the forty years of administration of our present Government. It would be very hard and unequal for representatives of distant towns from the seat of government to travel two hundred miles, and then for the towns to pay for it, while the representatives of the towns round about the seat of government could go home once or twice a week without trouble, and the towns have little or nothing to pay.

Judge Ames said, the question is upon striking out that part of the 7th section, making provision to pay the representatives for their travel out of the public Treasury. To this he was opposed—The honorable mover (he said,) at the time of making the motion yesterday, assigned as a reason for it, that the legislature ought to have the power of providing, that the expense both of the travel and attendance of the representatives should be paid out of the public Treasury, or by the several towns and classes, as they should deem most proper. In the course however of this morning's debate upon the subject, the honorable gentleman has avowed another reason for his motion, totally different from the first, and now wishes to strike out the same part of the section, that in stead thereof a provision may be inserted to pay the members both for travel and attendance out of the public Treasury—(Mr. A. said,) he apprehended, that both these reasons on mature deliberation, would be found to be equally unsound, and that the section ought to remain without amendment. In the establishment of every good government, there are certain great leading principles, founded in the nature of man, which must be recognized and supported, as the only sure basis of public justice and individual protection—Such are the principles recognized in the Bill of Rights,

upon your honor's table, and these principles of right, which no circumstances can change, must be secured to the individuals associated under the civil compact, by the provisions of the constitution, and not left to the uncertainty and instability of legislation—From the principles, recognized in the Bill of Rights, that all men are by nature equally free and independant, results the right of equal representation under the constitution, we are now forming. This right therefore, with equal privileges attending it, should be secured by the constitution. But would the system of representation in this constitution be equal in operation, and enjoyed with equal privileges, should each town be obliged to pay the travel of its own members? The legislature is an aggregate body, composed of members from every part of the territory, over which its jurisdiction extends, and will be convened in the most central part of that territory. Each town or district is presumed to have relatively an equal portion of the representation, and should have it at the same relative expense, or otherwise it will not be represented upon equal and just principles. But for the sake of elucidation, suppose two towns, each entitled to one Representative, the one being the seat of government, and the other placed at a distance of two hundred miles from it—the former would have nothing to pay for travel and the latter forty dollars. To pay the representatives for their travel out of the public treasury is therefore a necessary part of the system of equal representation, and ought to be among the provisions of the constitution. Thus (he said,) he was irresistibly brought to the conclusion, that the first reason, assigned by the honorable mover for striking out, was not sound in principle; and the second would be found, as he apprehended, equally unjust and fallacious. It cannot (he said) but be perceived, that the present system of representation is a system of compromise, giving to the small towns a larger representation in proportion to their population, than to large towns. Under these circumstances it has been thought by many, that the Senate ought to have been predicated upon taxation, and apportioned accordingly, as in the Commonwealth of Massachusetts. Had this been the case, no reasonable objection could have been offered to paying all the members of the legislature for their attendance out of the public treasury, notwithstanding the unequal operation of the present system of representation. But property is not represented in either branch of the legislature, the senate as well as the house, being predicated

upon population. Is it right then to take from the large towns the privilege of being equally represented, and at the same time require of them not only to pay their own, but the Representatives of other towns? Will not this be the operation, should the gentleman's motion prevail? Examine the facts. The town of Portland (Mr. A. said) as he was informed, pays one nineteenth of the whole state tax in Maine, and, upon the principle contended for, must pay *eight representatives*, and be allowed to send but *three*. This also would be the operation with all the other large towns in the State; and is it possible, that this principle can be advocated by fair minded, impartial, honest men? I will appeal to their consciences, and ask high-minded, honorable gentlemen of this Convention, whether they are quite ready to establish a principle, so unjust and wicked in its operation? Whether they are so soon prepared to impress upon the features of this constitution the foul crime of robbery? I do not, cannot believe it.

Mr. Holmes—Sir—I said nothing of a fear of the people—I did express a fear of the legislature, but not of the people. There is a difference in the danger of trusting the legislature and the people. What are we here for but to make this distinction, to preserve the rights of the people, and to set landmarks, beyond which the legislature are not to go?

My object is not to *strike out*, that the towns should be burdened with pay of the *travel* but to try the sense of the Convention whether they will not put the travel and attendance on the same footing and make it *imperative* on the legislature to pay *both* out of the public treasury.

If the representation is not equal make it so—If it is as equal as it can be under all circumstances, why is it not right that the expense should be paid out of the general fund? What is the object of legislation? and why should a town worth five thousand dollars pay as much as one worth twenty five thousand having the same number of inhabitants?

Col. Moody.—I rise, sir, to make a remark in public to the Hon mover who has just sat down. He says the large towns ought to make sacrifices to the small towns, because of the inconveniences which the small towns labor under; and so I think they ought, in respect to representation. But they ought not to be compelled to make sacrifices in taxes also—to give up to the small towns the right to an equal representation, and then to be taxed for it. If the attendance of the representatives were paid out

of the County Treasury, it would be equal. But is it fair, is it just, for the large towns to make such an enormous sacrifice in representatives, and then to tax them four fold to pay them.

Judge Parris. Mr. President—The gentlemen of this Convention will observe I have not been perfectly silent during this discussion. I have regretted to see gentlemen rising and complaining of the inconvenience of this or that town in the proposed representation. I can sit no longer—we have a community of interests—we have a kind of partnership. Towns of 7500 inhabitants are to be shorn of part of their rights and a town with 4500 is to have as much power. Is there any reason for taking this equality of power from an equal number of people? I can sit no longer and consent that they should also be taxed to pay for it. If you equalize representation and taxation—there would be a perfect equality in making the towns pay equally. I cannot consent that the small towns, &c. shall have an exclusive benefit. We must retrace our steps. Make the representation equal, and I have no objection to pay them out of the public chest. But to compel the large towns to submit to sacrifices and then to compel them to pay for this loss of privilege, I am opposed.

I have always understood that in the old constitution the provision for paying the travel out of the public chest was a compromise between large and small towns.

The President called the attention of the Convention to consider if it was necessary to decide this question. It might perhaps be better left to the legislature to settle it.

Gen. Chandler, was for leaving it to the Legislature.

Mr. Herrick enforced the argument in support of his motion.

Judge Bridge rose to say, he regretted that the committee should find it necessary to oppose the report. The committee left it where it ought to be: that the pay for the travel should be paid out of the public chest, and left the mode of paying the attendance to be settled by the legislature. He hoped the report would be accepted.

Judge Thatcher made some further illustrations of the inequality of the representation.

Mr. Whitman. I do not believe it is at all important that we should make any regulation of this kind. It is as certain as any thing can be that the representatives if they have the power will vote to pay themselves, wholly out of the public chest. If the legislative body were properly constituted, and of a com-

petent number merely to transact the public business to the best advantage, there would be every reason why they should be so paid. As it is, it will have every motive for paying itself wholly out of the public chest. The motive being strong, and the principle, in the abstract, being in favor of it, we must believe they will do it.

I say the motives will be powerful to induce them to it. What are these motives? We are about to say that the large, old and more wealthy towns shall be deprived of no inconsiderable share of their right in comparison with the small towns. These old towns, have, at the same time, much more than an equal proportion of the wealth. Their influence is to be diminished, perhaps, in about the same proportion as they are comparatively wealthier. In some instances the disproportion against the large towns is much greater. In this county for instance the town of Portland pays about one third of the public taxes—at the same time that it is to have but one eighth of the weight. Under such circumstances can the representatives from the small towns return to their constituents and say that they have voted their whole pay directly from *their* purses; when by voting it out of the public chest they would pay but a third part or a quarter of it. So it will happen that Portland will have but three representatives, and be, nevertheless, compelled to pay for eight. The same will be the case, though, for the present in a less degree, with all the other old and large towns. But Hallowell and Augusta pay one fourth part of the taxes in Kennebeck, and send but two representatives. Besides there is to be no check in the Senate. Were the senate apportioned according to valuation, as heretofore, that body might have furnished a check. But as it is there will be neither check nor motive to prevent the payment of the whole expenditure from the public chest. I desire it may be distinctly remembered that I am in favor of so paying it if the legislature were properly constituted. Let the representation be equal; and of the suitable number, let them be kept together, and be made to consider themselves as charged with the public welfare, and there would be no reason why they should not be so paid.

Mr. Emery. Mr. President, when I look at the preamble of the constitution and see it professing to establish justice, I feel a pleasing expectation that justice will be contained in the rest of the constitution.

I believe we have started with wrong principles as to the ex-

pectation of the extent of the legislature. No one, six months ago expected over one hundred representatives, and we shall find the number fixed on too large. New-York in 1787 framed her constitution establishing one hundred representatives, limiting the number at three hundred, but the State became dissatisfied with so numerous a house, and in 1801 revised their constitution and fixed it not to exceed one hundred and fifty, and finding the senate of one hundred too large, fixed it at thirty-three, yet that state has now more than a million of inhabitants. Why then should we, with a population of less than a third that number, require two hundred Representatives. Experience had taught that state that their representation was cumbrous and inconvenient, but no wish was now felt to raise the number to three hundred again.

If an equal number of people elected an equal number of representatives—should we have had a question of justice and morality presented to us? The error is in giving to one part of the community the right which is withheld from another and yet compelling them to pay for this loss of privilege.

I know of the sufferings of the people in new towns. I am willing to consider their sufferings. But, Sir, it is not a life of suffering. They have much fertile soil. They get wealth and comfort which will be envied by the world. They secure health, competence and quiet—Can any portion of the community secure more for enjoyment? Let us see if towns on the sea shore, if fishermen do not suffer. The people who live on the Islands; do they not procure their subsistence at the hazard of their lives? do they not have to launch their boat in the most inclement season and go about from place to place to procure a bushel of corn to subsist upon? Is that a hardship? Is it a hardship for the poor sailor to perform his duty in all weathers—to handle sails, blow high or blow low, to enrich his employers? But they are not entitled to vote, or to representation, which is the same thing. Yet they are exposed to hardships and sufferings, while the landsman is secure.

Will the delegates say that right or wrong they will pay themselves out of the public chest and not leave them a right to be heard? I believe they have more elevated views. If they return home and a question is asked them why is this or that provision in the constitution? they will say, I did by my neighbors as I would have others do by myself. The straight forward course of justice as it is the only proper, so in the end it will be.

found the only popular course. The provision has been retained because the good sense of the community has approved of it.

Mr. Holmes. It is my wish that the various interests of all classes should be consulted. I have wished the pay of the members should be in proportion to the representation, I am sensible this is not so. I will therefore vary my proposal so as to add, at the end of the section—"and they shall be paid for their attendance out of the public treasury and the expense thereof shall be assessed on the inhabitants of the several counties according to their number of Representatives." I believe this will be upon principles of justice. Each county will pay in proportion to its numbers and each town will pay according to its representation.

The vote was then taken on the motion of Mr. Holmes, to strike out, and it was negatived, 38 being for and 156 against it.

Rev. Mr. Hooper moved to strike out the first part of the section and substitute a provision that the senators and representatives shall receive a compensation which shall not be increased or diminished, to take effect during the term for which they are elected. Which was negatived, without a division.

Judge Green moved to add to the section, "*But the attendance of the members shall be paid by the several towns and classes in which they shall have been elected.*"

This motion was negatived, 55 to 107.

The question on the acceptance of Mr. Herrick's amendment to insert the words, "out of the Treasury of the State," passed in the negative, 88 in favor and 134 against it.

Mr. Holmes then offered his amendment to assess it on counties, which was also negatived, 20 to 147.

The seventh section now passed as reported nearly unanimously.

Sections 8th and 9th passed without discussion.

Section 10. Mr. Hobbs moved to strike out the *proviso*.

Mr. Holmes. The proviso seems to be necessary. You are to organize a new government and to this end must create many new offices. Your first legislature will be extensive and as its business will be important, will require most of the talents of the State. Were you to exclude all these, it is doubtful where you would find a sufficient number of suitable men to fill the offices. The people would be exceedingly embarrassed, not knowing whom to elect and whom to reserve for office.

The object of the provision is to prevent unnecessary offices

being created, or salaries unreasonably increased to satisfy the ambition or cupidity of those who create or increase them; but the reason will scarcely apply to the first legislature, and if it did, the circumstances of the state seem to require the exception.

The motion was negatived.

Judge Thatcher moved to strike out "No member of Congress, nor person holding any office under the United States."

This motion was lost.

Mr. Dane, of Wells, moved to insert, after "Justices of the Peace," "*and of the Sessions,*" in order that justices of sessions should not be excluded from the legislature.

Mr. Whitman doubted if this would be a judicious amendment. It is important, said he, to exclude the judicial officers from the legislature. They should not have it in their power to enlarge their own jurisdiction. The Court of Sessions has heretofore had an extensive criminal jurisdiction. It may be expedient that they should again have it. In such case it would be improper for them to be members of the legislature. If it were not for the sweep it would make, it would be well to exclude Justices of the Peace. When men go to the legislature, if not already, they soon become Justices of the Peace, and if they are all Justices of Peace, what guarantee shall we have, that they will not extend their jurisdiction? It would be desirable, if it would not exclude such a host, to exclude them. It would be better, if a court were constituted in each town who should be called the town judge, who should have the jurisdiction which justices now have, in their stead, and such judges might be excluded from the legislature.

Judge Thatcher thought that from their small number they could not have much nor a dangerous influence in the legislature. Executive and judicial officers ought generally to be excluded, but it could not be very important to extend it to Justices of the Sessions. Motion lost.

Sections 11 and 12, the last in this article, then passed the Convention.

ARTICLE V.—PART FIRST—*Executive Power.*

Sections 1 and 2 passed without debate.

Section 3. Mr. Russell moved to strike out "first Wednesday of January" and insert "*October,*" which did not pass.

Sections 4, 5 and 6, passed with some verbal amendment, principally for the purpose of making them more correct in style.

Col. Moody moved to strike "diminished" from the 6th section in order to leave unrestrained the power of diminishing the salary of the governor during his continuance in office.

Mr. Whitman objected, for the reason that he considered such a power to be inconsistent with a suitable independence of the first magistrate. The danger of losing a portion of his income might induce him improperly to court favor, and prevent him from firmly resisting corruption and wrong.

It was also opposed by Judge Thacher, and withdrawn.

Gen. Chandler suggested the propriety of amending the 7th section, so as to admit the right in the commander in chief of the militia, to pursue a beaten enemy over the line of the State.

Mr. Holmes said if the alteration were made it would be one of principle, which was taken from the old Provincial Charters. It would be dangerous to give an executive officer the power to march troops out of the State, without the consent of the troops, or of the legislature, which, if necessary, might be obtained.

Section 7, then passed without amendment.

The remaining sections 9th, 10th, 11th, 12th and 13th, passed without debate.

ARTICLE V.—PART SECOND—*Council.*

Dr. Rose moved to strike out the whole article—he thought a council unnecessary, and that dispensing with one would be a great saving of expence, an expence without any adequate advantage. The government of the United States had no established council. The President consults with the heads of departments, who are called his cabinet council; and the governor will have his aids, adjutant-general and other officers to assist him in the discharge of his duties, with whom he may advise. The Executive of most of the other States, act without a council, and no complaint is made of the want of one. New York has one, which they would be glad to be rid of.

I believe, said Dr. R. we can get a Governor as capable of doing the business of the Executive alone, as other States. If we give him a council, we not only incur a useless expence, but divide the responsibility, and open a door for intrigue. The Senators will come from all parts of the State, and will give him all the information he could obtain from a Council. And besides, as has heretofore been the case, he may have a council in whom he has no confidence.

Mr. Holmes said, he thought it his duty to defend the Report. In the committee, said he, I urged the same arguments

against a Council which the gentleman from Routhbay has offered, considering it a useless appendage to the government. But I received such information from those gentlemen on the Committee who have been members of Council, that such business was done by them, which otherwise, must be done at a much greater expense by men with established salaries that I was convinced it was best to retain it. The Lieutenant Governor is given up on all hands, but I hope we shall preserve the Council.

Mr. Whitman regretted that the Hon. gentleman from Augusta, (Judge Bridge,) who was not then in the house, was absent. He being at present a member of the Council of Massachusetts, might enlighten us, as he did the committee, on this subject. Having had however a little experience in that body myself, (said he) I will suggest a few considerations in favor of it. Advising in relation to appointments, is but a trifling part, comparatively, of their duty. To the public, however, this has seemed to be the sole object of having such a body. It should be remembered that no money, for any purpose whatever, can be drawn from the Treasury, but by warrant from the Governor with advice of Council. Such a check upon the issues from the Treasury, must be lodged somewhere. In the Treasury of the United States, these checks and safeguards are numerous. Whoever makes a claim upon that Treasury, must present the evidences of his right of claim to the auditor, who examines it, and, if deemed by him to be just and legal, it is next submitted to the comptroller. If he should be satisfied of its justice also, he will add his certificate to that of the auditor, all which must be delivered to the *Treasurer*, who causes a warrant to be made out, which being signed by all those officers, and, finally, approved by the *Secretary of the Treasury*, will enable the applicant to get his money. We have made provision for none of these safeguards for our Treasury. The Governor and Council have heretofore been found competent to the purpose in this State. And this is the cheapest establishment we can have for such a purpose. The Council have, constantly, a standing committee of their body, entrusted with this branch of business. Every application for money from the Treasury, is referred to this Committee, who hear the applicant, or examine his documents, and, having ascertained the facts, report them to the Governor and Council, with an opinion as to the justice or injustice of the claim. If just, and the report be accepted, all

warrant issues—otherwise not. It is manifest that the Governor could not, alone, attend to all this : and I presume we shall not find it for the interest of the State to establish an Auditor's Office, with his clerks and other expenses, in lieu of a council, which would not cost a quarter part as much. This power over the Treasury must be lodged somewhere. It will not do to allow the Treasurer to determine what claims ought to be paid, and to pay them at his discretion.

The power of pardoning offences also must be lodged somewhere. There must be some mode of investigating the facts in relation to this subject. The States' prison is full of convicts. Applications are continually made by them, or their friends. To them it will not do to turn a deaf ear. Every claim of this sort must undergo an investigation. A standing committee is charged with this branch of business ; their duties are often laborious. Their reports of facts and opinions are numerous, as the records will show ; for every thing in council, must be entered at large on the records.

There is confided to the Governor and Council, still, another branch of business, which requires a standing committee. The Governor, with the advice of Council, is to organize the militia, by dividing into Divisions, Brigades, Regiments, &c. The applications for alterations, for the formation of new Companies, and the abolishing or consolidating others, are very numerous, and require much investigation. On the whole, sir, I believe there is no other body of men whatever, who have, under the Constitution of Massachusetts, performed so much and so important service, at so small an expense.

Dr. Rose said he was convinced the members of the Council were profitably employed ; but thought the Treasury was in no more danger without, than with them. It could not be secured, unless the Treasurer were a responsible man. He knew of no other State, which had had its Treasury plundered, but Massachusetts, which is almost the only one that has a council.

The motion to strike out the Article was negatived.

AFTERNOON.—Mr. Leighton, of Shapleigh, moved to amend the first section, by striking out "seven" and inserting "five," as the number of which the Council should consist.

Col. Moody hoped the motion would not prevail. If, said he, the gentleman would consider the extent of our territory,

and the provision that no more than one Councillor can be taken from a county ; that the proposed number is smaller than that of Massachusetts, and the variety of subjects which come before them, I think he could not wish to reduce it. The difference of expense between five and seven is so trifling, that I think no one will vote for five in preference, merely on that account. And considering the extent of the State, and that in advising the Executive in relation to apportionments, it might be found necessary to have one from the seven most important divisions of the State, I think the alteration had better not be made.

Mr. Dickinson, of Machias, thought that five might give the Governor all the requisite information about candidates for office, as well as seven.

Judge Bridge gave some additional information as to the business of the Council of Massachusetts, to show the policy of retaining it. He observed, having had the honor to be a member of that body, he could say generally there are no officers of the government who labor so hard for so small a compensation. There are, said he, no less than five standing committees in the Council of Massachusetts. The first is that of pardons, the applications for which are exceedingly numerous, not less than from fifty to a hundred being usually before the committee undecided on, upon which they must come to a judicial decision. There is another committee on military affairs, which keeps a docket, and has as much business as two or three can attend to. There is also a committee on warrants, and a distinct committee on county treasurers' accounts. There is another on pensions, which we may not want. But we shall find seven too small a number to do the business that will come before them. But he had not stated all. The Council is frequently called together when the Legislature is not in session ; and it is the general tribunal, to which every thing relating to government is referred.

Mr. Holmes. Mr. President—I doubt whether we are not disposed to be a little more prudent than is consistent with wisdom. We might, by this amendment, possibly save a hundred and twenty dollars. And even if we can do this, we should see at what expense we save it. Two hours sitting here, will eat up this expense. We are told, sir, that the Council is divided into committees. Where are standing committees, of two or three apiece, to be taken from, if the Council consists of but

five—and who will advise the Governor? If their business is done by others, we must have a comptroller of the treasury, and a secretary of war, with a salary of fifteen hundred dollars, to save one hundred and twenty. Now, sir, I was opposed to a Council, until I was convinced of its utility. But if we have one, let us have one that is efficient. If we have a small number, they will be the mere puppets of the Governor, or open to intrigue and corruption. I would bring to your view, sir, things that would convince you that it will not do to have a Council, which will merely serve to throw the responsibility from the Governor. Rather let us have no scape goat to carry off his sins. The effect will be, the Governor will say the Council beguiled us, and we did eat. Indeed, for the reputation and benefit of posterity, I hope the motion will not prevail.

Dr. Rose said the arguments had convinced him, that it would be better to have five than seven. How, he asked, can we have committees out of seven, more than out of five?

Mr. Leighton said we have had but two or three of the council of Massachusetts taken from Maine, and thought if we now had five, it would be sufficient.

Judge Cony observed, that seven could hardly be considered too large a number, especially as one or two would usually be absent.

Gen. Chandler said he had been opposed to a Council, and supposed all the business might be done by the Governor. But on hearing the arguments which had been offered, and being informed of the business done by them, he was convinced of its utility, and his impression then was, that it was best to adhere to the report.

Mr. Whitman observed, there was one thing which had not been mentioned in the remarks on this subject, which was, that the Lieutenant Governor of Massachusetts, was a member of the Council, and performed his duties with the others, which made the whole number ten.

The motion to strike out *seven*, was lost, 110 to 74; and section 1 passed, without a dissenting vote.

Sec. 2 Mr. Baldwin moved to amend this section, by striking out the words which vest the power of electing Councilors in the Legislature, and inserting a provision for their election by the qualified electors, &c. He thought the Council ought to be chosen by the people. If, said Mr. B. they are chosen by the Legislature, they will of course all be of the same

political complexion as the majority may happen to be. But if they are elected by the people, they may take such men as they please, and they will represent the different political views of the different parts of the country.

Mr. Shepley spoke against the motion; and said that if the members of the Council were chosen by the people, it would be necessary to district the State anew for that purpose, and that the effect of it would be to produce collisions, which it is desirable as much as possible to avoid.

Judge Cony said, the election of councillors by the Legislature, was not depriving the people of their rights. I presume, said the Judge, the people expect to delegate some of their power to the Government; and would it be for the interest of the people to retain this power? On the contrary, its exercise would be found very inconvenient; and none are so well qualified to make the selection as the members of the Legislature.

The motion was lost, and the section passed with a small amendment.

Sec. 3 Mr. Whitman moved to insert the words "who agree thereto," which was agreed to.

Judge Bridge made some explanations of the mode of recording the proceedings of the Council. They are first made on a kind of waste book, and entered for every day on the records, to which the members sign their names. A provision is made for either House of the Legislature to call for these records, so that there is a complete responsibility of the members of the Council.

Sec. 4. Mr. Whitman moved to amend, by inserting after "any person holding any office," the words "*in the Executive department of*"—"the United States." He wished to keep up a distinction between the Executive departments of the two Governments. He was not for having the exclusion so extensive as to prevent any who hold offices under the United States, from being Councillors.

This amendment was adopted, and the section passed as amended.

ARTICLE V.—PART THIRD—SECRETARY.

The four sections in this Article, passed without amendment or debate.

ARTICLE V.—PART FOURTH—*Treasury*.

A motion was made to amend the second section by requiring the treasurer's bond to be approved by the governor instead of the legislature.

Mr. Holmes, in support of the report, observed that the people were always jealous of the disposal of their money ; and as their money is to be drawn from the treasury by the joint act of the governor and the treasurer, it was thought best to have the bond given to the satisfaction of the Legislature. Such is the provision in the Constitution of Massachusetts, and it was thought best to retain it. Motion withdrawn.

The four sections in this article passed without further discussion and without amendment.

ARTICLE VI.—*Judicial Power.*

The six sections in this article passed unanimously without debate.

ARTICLE VII—*Military.*

Mr. Little, of Bucksport, proposed to strike out the whole article.

Col. Currier, of Readfield, moved to amend by inserting after the word "companies," these words, "the electors shall be twenty one years of age."

Mr. Holmes. It is the last proposition I would support—exclude those under twenty one from the right to vote. It is a grievance which has long demanded redress. Those between eighteen and twenty one are generally the best soldiers and often constitute half the company—And are these to be silent and see officers put over them, without their voice, and by men too who are soon to retire ? It has created much jealousy, disgust and complaint, and been universally deemed unequal and unjust and I trust it will be so considered by the Convention. It was one of the worst features in the Constitution of Massachusetts, and I rejoice that we have an opportunity to suppress it.

Col. Currier. I can see no reason why minors should be allowed to vote for military any more than for civil officers. They are not considered as coming to years of discretion until they are twenty one. They go to meeting to see their fathers vote, for state and town officers, but until they acquire some knowledge and experience it is not considered a hardship to exclude them from the right to vote themselves.

Mr. Holmes. The elector of State officers chooses his servant, the soldier his master, and a boy of fourteen may choose a master,

Col. Allen, of Sanford, spoke of the difficulty of discriminating between those of age and minors.

Mr. Little thought it better to leave it to the legislature.

Col. Atherton said, he felt it his duty to oppose the amendment—he had witnessed the ill effects of turning ambitious young men out of the ranks on days of election, merely because they had not arrived at the age of twenty one. Nevertheless they are ordered out to attend these meetings, and as it would seem, only to mortify their pride and ambition. It certainly has had this effect to his knowledge to a very extensive degree. Can we for a moment suppose, Mr. President, that the young men from eighteen to twenty-one, to whom we are willing to entrust the safety of our lives and the protection of our liberties are incompetent to choose their own officers? I hope, Sir, (said he) we shall forever do away this humiliating distinction which never can answer any other end than to damp the ardor of youth and destroy that ambition and emulation without which our military establishments would be good for nothing.

On motion of Judge Bridge,

Ordered, That a committee of nine be appointed to take into consideration the apportionment of senators and representatives for the first legislature, and to report such facts as they may find in relation thereto; and whether justice requires that any alteration should take place in such apportionment:—The Hon. Judge Green, Judge Parris, Dr. Rose, Mr. Gitchell of Vassalborough, Mr. Virgin, Col. Trescott, of Lubec, Maj. Treat, of Bangor, Col. Atherton and Mr. Collins, of Anson, were appointed the said committee.

MONDAY, OCTOBER 25.

A communication was received from the Secretary of the Commonwealth of Massachusetts, enclosing a list of the votes given in, in the several towns, within the District of Maine, upon the subject of separation of the said District; which was ordered to be placed upon the files.

Gen. Wingate moved to reconsider the vote passed on Saturday, on the amendment proposed by the Hon. Mr. Whitman, in the 5th article, part 2d, section 4th—which was in these words, strike out the word “under,” and insert the words “in the executive department of.”

Judge Green stated that he believed the motion when it passed was not perfectly understood. The amendment throws open the doors of the council to the officers of the general government. He thought it highly improper to admit all these officers,

and contrary to the system of excluding all officers of the general government from taking part in our state government.

Mr. Whitman opposed the reconsideration. The amendment was distinctly explained, and he believed well understood in all its bearings, when the vote was passed. We should not, said Mr. W. exclude men from office, but for good and sufficient reasons.

I did think the distinction between the executive and the other branches should be kept up. And I do conceive that the legislative and executive branches of the two governments had ought to be kept as distinct as possible. Beyond this I do not think it necessary to go. We may find it necessary to have the services of the other officers of the United States, and we ought not to exclude them. We may find it extremely convenient to avail ourselves of the information and talents of those who are in the judicial apartment, by placing them, or having the power to place them in the council. First we exclude members of congress, and next any officer in the executive department. Further than this we ought not to go or we may exclude the best talents in the state. The gentleman from Bath said we should exclude, as the section now stands, only the secretary of state. Sir, it is not so, it excludes the President and every officer under him in the executive department of the United States. I regret to be deprived at the council board of the talents of our collectors of the revenue ; but they are a part of the executive branch of the government and therefore ought not to be introduced. But when it applies to the judiciary, what incompatibility is there, in their being members of the council? The Judge has only to say what is the meaning of the laws of the United States. I would not therefore exclude ourselves from benefitting our council by introducing the judges, unless there is some manifest reason for it. I would not reject them. The proposition was passed with great unanimity, and I hope it will not be reversed.

Mr. Holmes said, he thought that as the section now stands, it will extend only to executive officers, which he believed is not what was intended. I see no reason, said Mr. H. why we should exclude officers of the State, more than those of the United States. I can see no difference between a judge of United States Court, and a judge of this State. I think it immaterial whether both are excepted or both admitted. There is, in my opinion no incompatibility in admitting them ; but it would

be an odious discrimination to include one and exclude the other.

The motion to reconsider prevailed, and the amendment was lost.

Mr. Holmes then moved to insert after the word "State," the words "or persons holding any executive office under the United States, or this State, notaries public excepted."

Mr. Holmes said he would exclude both or include both.

Mr. Dole, of Alna, hoped the motion would not prevail; he believed the section was then in its most perfect shape.

Mr. Whitman. I think it is better that the section should stand as it is, than to adopt the amendment. I do believe it to be a well founded principle that the different branches of the government should be kept distinct. Shall we then say, that the judges may be members of the executive department? Will not the governor and council appoint these very judges? Sir, the judges of our supreme judicial court are, I trust, to be the first men in the State and ought not to have the power of nominating themselves. I would not mix those branches when there is no necessity for the intermixture. To suffer them to be their own creators, would, in my opinion, be a manifest impropriety. I would not grant this power to the executive department. But they have nothing to do with the appointment of the judges of the United States Courts. If, however, they must be both excluded, or included, I must vote against it.

Judge Thacher had no objection to the exclusion of State Judges, in order to prevent a confusion of departments; but thought the reason did not extend to the officers of the United States. He could see no evil that could possibly arise from introducing the judicial officers of the United States into the council.

Judge Parris. I hope, Sir, the motion will not prevail. There can be no necessity of taking the judges for members of the council and not keeping the departments distinct. I can see no reason for making a distinction in favour of the judges of the United States. As the laws of the U. S. now are, there is but one judicial officer of the United States, who, under the amendment, would be placed in the council; and I am sure he would not take a seat in that body to advise the governor.

Mr. Preble rose to express his satisfaction with the article as it stood, and hoped they would not attempt to make these nice and invidious distinctions.

Mr. Holmes. From forty years experience in Massachusetts.

I am satisfied the gentleman from Portland is incorrect, as judges of the State have been, and judges of the United States have not been elected members of the council. As I thought the Convention wished not to exclude the judicial officers of the U. States, I made the motion. But the argument of the gentleman did not satisfy me, and as I cannot be satisfied, I will withdraw the motion.

Mr. Holmes submitted the following amendment to be added to the 3d section of article 4, part first :—" And whenever any town not entitled to elect a representative shall determine against a classification with any other town or plantation, the legislature shall, at each apportionment of representatives, on the application of such town, authorize it to elect a representative for such portion of time, and such periods, as shall be equal to its proportion of representatives, and the right of representation so established, shall not be altered until the next general apportionment."

There has been this difficulty, (said Mr. H.) You connect towns which have no natural connexion, and which are not on friendly terms. This connection may widen the breach. It is desirable to obviate the difficulty. The amendment proposed gives an election to these towns to be classed or not. If they determine against a classification, the legislature shall assign them a representative, such portion of time, and at such periods, as shall be equal to their population. If several towns apply so as to increase the number too high for any particular year the legislature may postpone some, and so distribute them, as to comply with the other provisions of the constitution.

The President expressed an opinion, that if the subject were committed to a select committee, to consider and report thereon, it would save the time of the Convention.

Gen. Chandler was in favor of the motion. By classing the towns, you give them a right; but there may be a difficulty in the exercise of it. It will be more agreeable to the wishes of the people to give them a right to choose alternately. But I would not commit the subject, for if we break in upon the system, we know not where it will end.

Mr. Holmes said, he should be sorry that any proposition of his should set afloat a system so well matured and considered as this. If that were to be its effect he would not offer it. I hope, said he, we shall not go upon an untried ocean, this third week of our session, when it is extremely desirable that we should be bringing our work to a close.

Judge Parris, was not willing to commit the subject, farther than for the committee to consider the proposition of the gentleman from Alfred, or other propositions which might be offered for the members from the small towns might be heard and some mode devised that would be satisfactory to them. But he should not be willing that the whole subject should go to a committee.

Judge Green was also willing to save time—but not to set the whole subject afloat. We ought not, said the Judge, to move it, or disturb it. The question for a re consideration of the whole subject is soon to come before us, when it will undergo a discussion—and I am satisfied the Convention will not reconsider it, unless a substitute is offered. But I think the motion should be committed, to see if any thing which would remove the difficulty can be devised. He then moved that the subject of Mr. Holmes' motion be committed to a select committee.

Dr. Rose hoped it would not be committed. He said the proposition gave the small towns an opportunity of choosing together, or not; and was a mode of making peace among the towns. It does not alter the report, any further than to provide for those towns a mode of being represented, which gives them an opportunity of making their election whether to be represented or not.

Mr. Baldwin thought that if an opportunity were given to collect the minds of those concerned in classification, a more satisfactory system might be agreed on.

Judge Thacher observed, he was not certain that he understood the effect of the motion of the gentleman from Alfred, in the sense he meant it, but if he did, he said, he was most decidedly against it. He said, he thought it was a departure from the fundamental principle, soul and spirit of the whole section: which he understood to be, that no portion of the people less than fifteen hundred, except in one possible event, should be authorised to elect a representative. Whereas, if the amendment takes place, it may be, and probably will frequently so turn out, that a portion of the people, not exceeding two or three hundred will be invested with the right of electing a representative: or more properly, the simple majority of qualified voters found in that small portion of the people, who may not exceed fifteen or twenty, will have the right once, in two, three, or five years to elect a representative; which re-

presentative will have the same power, during the time he is elected for, as a member chosen by the full majority of a town of two thousand inhabitants.

Suppose three small towns or plantations are put into a class, because they contain fifteen hundred inhabitants—these individuals in their *newly classed capacity*, constitute a corporation to which the Constitution annexes the right of electing one representative; in this view, these fifteen hundred persons are in no respect different from the people in the towns of Saco, or Biddeford, or any other town having fifteen hundred inhabitants, and not enough to send two representatives. The true principle of the section is that every fifteen hundred, with the occasional fractions it may contain till it shall have enough to entitle them to send two, shall send *one representative*, and *but one*. It matters nothing to say the fifteen hundred persons thus classed together are distributed over the territory of three incorporated towns, or plantations. The right of representation is not one of the town or plantation rights; and whatever may have been the case under the ancient charters of the Colonies and Provinces, towns or plantations do not necessarily include the right of electing a representative. And as well may that portion of people, in any other incorporated town which are included in a school district, claim the right to a separate representation, as these small towns and plantations. Nor did he see any abstract ground or reason on which one of these small towns or plantations could be justified in their claims of privileges, over any equal portion of the people in any of the large towns.

He continued to observe, that it appeared to him some evils might grow out of such a regulation; what if each of these *imaginary component parts of a town* should apply for their right to a separate election of a representative as often as their numbers might be found to bear its ratio to the whole number of the class? Shall each have the privilege the same year? Or shall A. have it the first year, B. the second and C. the third? If it be granted to one only for the same year, which has the right of priority? And is not this tantamount to saying that the majority only of one third of the votes in a town shall elect the representative, while the two majorities of the other two parts are not permitted to vote at all—And so the town may always be represented by a person who is opposed by four fifths of its qualified voters!

But he wished to know, what there was to prevent the Legis-

lature permitting each part to elect the same year; and one had as good a right as the other; for the real equivalent this *portion of people* give for the privilege of sending one representative in this manner, is that they willingly consent to be without a representative till their turn shall come round again, in three, four, or five years, according to the ratio their number bears to the whole. And it is natural to suppose the times and circumstances may be such as that each town or plantation, in the class, may have good reasons for their separate right, in one year, rather than another—Indeed, he thought very strange results, might be expected to take place from an arrangement so novel, and contrary to any thing he had been hitherto acquainted with.

Judge Dana. Mr. President—I cannot agree to the amendment of our honourable chairman of the committee. It is his duty to explain and support the report; but when he discovers necessary amendments, it is his paramount duty to propose them. With *this view* he has undoubtedly offered *this amendment*; and I confess I discover in it some salutary provisions. Where a town has not a sufficient number to send a representative, and so situated that it cannot be classed, it is proper that such town should have representation according to its population; so, where two or more towns are classed, but are not contiguous and conveniently situated for a district, it may be convenient for them, each to enjoy its representation by rotation. But while these benefits may be derived from the amendment, is the honorable mover aware of all the evil consequences, which will result from it? Suppose a town to be classed with a number of plantations—by taking the town from the district, you break it up, and thereby deprive the remainder of the class from enjoying the right of being represented—for they may be so situated, that they cannot be formed into another district. Again, Sir, the amendment as now proposed authorizes the Legislature, upon the application of a town in a class, to take that town from the class, and allow it a separate representation; but no such favor is the Legislature authorized to extend to *plantations* in the same class, and perhaps more populous than the town, for which such privilege is designed. Why then this distinction—this *unequal distinction*, between towns and plantations? Besides, Sir, if you authorize applications of this kind to the Legislature, will they not be continually perplexed with them? However, if the amendment should be so modified as to admit plantations, as well as towns to a participation of the same benefits, I should withdraw my objections.

Mr. Holmes. The application to the Legislature is to be made at the time of the apportionment. The towns applying will first be arranged, and then the residence taken and classed. Between the periods of apportionment they cannot be altered on application.

Judge Dana thought it for the advantage of small towns. But there is another objection. Take a section of country containing three or four towns and six plantations. One large town shall be allowed to send a representative once in two or three years, leaving the remainder of the class too small to entitle it to be represented; will not this render the classing impossible?

Mr. Allen, of N. was highly gratified with a proposition which would accommodate a great proportion of those towns which were subjected to inconvenience by the present mode of classification.

Mr. Whitman. Mr. President—I should be very happy to accommodate the small towns if it were practicable. But I am satisfied that there will be difficulties in the way, which are insurmountable. What, Sir, will be the effect of this amendment? We shall have the compact part of the State applying for a representation, and leave the plantations, of three or four hundred population, in effect without a representation. With such an extent of territory as they will be composed of, and thirty or forty miles for the assessor's to travel to examine and compare the votes, I think it will be tantamount to denying them a representation. Their right is, that a town with five hundred inhabitants shall have a right to send once in five years, and with four hundred once in six years. Sir, if we adopt this proposition, it will only make confusion worse confounded.

Mr. Miller, of Warren, observed, if we consume four hours in this discussion, we shall then be where we now are; and hoped the subject would be committed, that the towns concerned might state the inconveniences and see if they were susceptible of remedy.

Mr. Holmes hoped it would be committed, to see if the towns in the classes might not be accommodated.

Judge Dana suggested whether it would not be well also to commit the subject of two or more towns, which are entitled to send two.

Dr. Perkins, of Weld. Mr. President—I hope the amendment will not prevail. The reason why the gentlemen from the small towns say nothing on this subject, is in my opinion, be-

cause they are already satisfied, and are determined how to vote. By this system, if a person is chosen by one town, he will consider himself as representing the other towns. But one town if it chooses, can break up the district and vote not to send a representative and thereby the district will not be represented. These towns labor under inconveniencies, but they are willing to do so, for the public good. They must do that or not have the right over the large towns, in representation.

Mr. Vance, of Calais, confirmed the observation of Dr. Perkins, that those towns were well satisfied—at least, said he, as much so as they possibly could be, considering the situation of the country. In his district there were three towns, and six plantations; suppose each town to apply to the Legislature, two towns will then have no representative and the plantations none at all, as their turn will come once only in nine years.

Mr. Leach, of Raymond, expressed his approbation of the proposition of Mr. Holmes.

Mr. Parsons intimated that, as the next distribution would raise the number of inhabitants to confer the right to send a representative, other towns were concerned.

The motion to commit obtained, 112 to 88.

The committee appointed on this subject consisted of the following members selected from the several counties: Messrs. Dole, of Alna; Wood, of Lebanon; Leach, of Raymond; Lawson, of Wayne; Perkins, of Weld; Atherton, of Prospect; Neal, of Madison; Wilkins, of Orrington, and Burgin, of Eastport.

Gen. Wingate then submitted a further amendment to the 3d section aforesaid; which was read and ordered to lie upon the table.

ARTICLE VII.—*Military.*

Sections 1 and 2, passed with verbal amendments, suggested by Gen. Wingate.

Section 3. Gen. Wingate moved to insert "Quarter-Master-General," and also, "but the Adjutant-General shall perform the duties of Quarter-Master General, until otherwise directed by law." Which was agreed to.

Col. Hobbs, of Berwick, moved, after the words "the Major-Generals shall be chosen" to strike out "by the Senate and House of Representatives, each having a negative on the other," and to insert "by the Brigadier Generals, and the Field Officers in their respective Divisions." In support of this

motion, he observed, that he had seen practical evils in the present mode of electing Major-Generals. It had produced the election of men not before in commission, and thereby excited a dissatisfaction among the officers in commission, who considered themselves in a manner superseded; and he had known an Ensign resign, in consequence of the appointment of a Major-General. The Militia, said Mr H. are the best judges of the qualifications of those who are to command them, and the most deeply interested in securing the talents and knowledge on which they must rely for their respectability, usefulness, and safety. The legislature is composed of men from various classes of society—men generally exempted from military duty and little acquainted with tactics; not having an identity of feeling with the soldier, and consequently, not suitable to judge of the merits of candidates for military promotion.

Col. Atherton preferred to have the section stand as it was. The Legislature are the guardians of our civil rights, and with them should rest the appointment of our highest military commanders. It would be highly improper to place the power of electing so highly responsible an officer as a Major General, who may have twenty-eight thousand men under his command, in the hands of the military. A very dangerous use might be made of this power. He was disposed to secure the military all the privileges to which they are entitled; but he considered, that in this particular, there should be some balance to the *esprit du corps*, and under excitement which might sometimes exist among them.

Mr. Holmes. The Committee thought it safest to leave it as it is in Massachusetts. It has happened, that in selecting the Brigadier-Generals, from military principles improper men have been appointed; and it may be best to depart in some instances from strict military rules. We have generally preferred the old system, unless a valid objection was made, or some substantial reason was offered for changing. Experience is the best school-master. Under the Constitution of Massachusetts, we have done well enough in this particular; and it is a favorite maxim with some gentlemen, *to let well alone*.

Mr. Adams, of Gorham, said he must differ in sentiment from his friend from Berwick. The Legislature had indeed in some instances, departed from the usual practice of making choice of the next officer in rank; but whenever this had been done, especially in electing a Major General, for that division

comprised in the county of York, the militia had been greatly benefitted by the innovation, if it could be so called.

This motion was lost, 62 for and 104 against it.

Section 3, passed as amended.

Section 4, passed without debate.

Section 5. Persons of the denomination of Quakers and Shakers, shall be exempt from military duty ; but no person except the Justices of the Supreme Judicial Court shall be exempted by reason of holding or having held, any civil office, under this state without paying an equivalent.

Mr Hall, of Buckfield, moved to strike out this section and substitute the following : " The militia who are by law obliged to bear arms, shall have a reasonable compensation for their services." In support of this motion, Mr. Hall observed, that property ought to pay for the protection furnished by personal services—that such a system would remedy the inequality and injustice of the present arrangement, and that the militia would be satisfied, should there be a considerable number of exempts, if an equivalent should be required.

Col Atherton. No man, Mr. President, can feel more sensibly than I do, the great and unequal burdens, which have been exclusively sustained by the militia ; and no one is ready to go farther, and do more to equalize those burdens, than I am. There can be no question as to the justice of allowing a reasonable compensation for military services. It would be dividing among the whole a large tax, which is now thrown on a part. It would cost the people no more than it now does ; yet it would be apportioned more equally amongst all classes. But, sir, notwithstanding the manifest justice of this claim, it may be inexpedient to make the provision in the Constitution. It would at present be extremely difficult to raise the funds for this object. Hereafter it may be and ought to be done. It will be left for the Legislature to equalize the burdens. I am convinced that the militia will be perfectly satisfied at this time, with something less, as perhaps an exemption from a poll tax.

Mr. Redington, of Vassalborough, said the state of his health would have prevented his rising to address the Convention, if he was not compelled by a sense of duty to offer a few remarks. I should have no objection, said Mr. R. to this provision, if it was not for the attempt to draw into the ranks of the militia, some religious denominations, whose consciences forbid their doing military duty. A distinction is attempted to be drawn,

between the rendering a personal service as a soldier, and paying an equivalent ; but they are substantially the same. And those who have these conscientious scruples, can no more pay an equivalent, than take up arms and perform the duties of a soldier. Sir, what is an equivalent ? It is something which is equal to that from which they are exempted. You exempt men from committing what they consider a crime ; but you require them to perform services which are equal, or are an equivalent. Let me call the attention of the Convention to a few facts, sir, and they will be convinced that they cannot do the last, any more than the first.

The United States made a law, that the soldiers of the continental army, in the revolutionary war, might receive pensions for their services. Now these are men who have fought the battles of our independence, and have since become quakers ; and they will not receive their pensions. I knew an instance of this kind, and can there be a stronger one, to show that exemption from military duty will not relieve their consciences, while they are compelled to pay an equivalent ? Another fact I will state. I have known the property of quakers, to twenty times the amount, taken and sold for the payment of military fines, and they would not receive the surplus. I knew a man who was imprisoned for refusing to pay a fine, and he would not come out, although others offered to discharge it. If the Convention consider these facts, they must be convinced that quakers cannot, in conscience, pay an equivalent for the exemption.

It has been said, we should have none to defend us, if all were quakers. On the contrary, we should so conduct, that none would attack us. Having lived among them from thirty to forty years, I do know that they are a very different kind of people from what I once thought them. They pay their taxes for other purposes, but they cannot discharge a military assessment. They do not wish their property or lives to be defended at the cannon's mouth. They never give offence to others, and history can furnish no example of their wars. In reality however they pay more than an equivalent for military services. They support their own poor, and this alone is more than an equivalent. No poor quaker was ever known to apply to the town for relief. In addition to this, they pay their proportion for the support of the poor of the towns in which they live. They also support their own schools ; and they never asked or

received any public lands of the Legislature. If this section is left out they will be exposed to a tax, or to pay an equivalent, and I think the militia themselves will be opposed to it. I hope therefore it will remain, and be a part of the Constitution.

Rev. Mr. Francis, of Leeds, was not satisfied with the report. It goes to establish a principle which we have, in our bill of rights, declared we ought not to establish, and which ought not to be established—the preference of one sect or denomination to another. I would not wish to make quakers do military duty, or that any others should be compelled to do it, who are conscientiously scrupulous of bearing arms. I would therefore propose, in case the present motion does not obtain, to substitute an amendment, that all persons whose religious sentiments forbid them engaging in war, should be exempted from military duty.

Mr. Holmes. Mr. President—I will support this part of the report, as well because it is so reported, as that it meets my approbation. It is well as it is. It merely intimates to the Legislature that they *may* exempt quakers and shakers. It supposes that it will be best *generally* to exempt them; but that a state of things may exist, when it shall be necessary that they should contribute something for military purposes. I do not agree with the gentleman from Leeds, (Mr. Francis) that it interferes with the provision in the bill of rights, of giving one denomination a privilege greater than that enjoyed by another. It would rather interfere with the right of conscience, to compel these people to contribute to purposes of war. And what would be the effect of such an attempt? How would you make a soldier of a *quaker*, with his long tailed coat and his broad brim bat? Upon what principles of humanity would you drag him into the ranks, or the prison, for refusing to do what his conscience tells him is wrong? There seems, to be sure, some reason that the quakers should pay for their protection. But it is equally true, that they *cause* no military expenses. They want no grants for schools or academies; they demand no remuneration for the support of their poor, and they refuse not the aids which charity demands.

The reasons are equally strong in favor of the shakers. This singular people contribute nothing to the increase of mankind, and very properly refuse to aid in their destruction. They are not of the world: they are not made of *flesh and blood*. They share none of the benefits of the extravagances of society, and wish to be exempted from the effect of them.

As to the power to exempt civil officers of the state, these are very properly denied. The inducement of legislators to exempt themselves, is too strong to be resisted. They will become justices of the peace, and the first thing is to exempt themselves from military duty. This, by this Constitution, they are not permitted to do. Consequently two or three regiments of able bodied clerks, sheriffs, and justices of the peace, will be brought into the ranks; the reappointments, new appointments, and the disappointments together. Thus, sir, we can have an army at a moment's warning.

As to the proposition of the gentleman from Buckfield, (Mr. Hall) although I may think it reasonable to pay the militia, we ought to inquire whether we have the money. We are yet poor, and must begin with economy, and when the purse will bear it, let the legislature pay the militia. I trust neither of the propositions will be adopted.

Mr. Hall said he did not wish to make the Quakers do military duty. He thought that if it was left to the Legislature, they would exempt such as they saw fit, and that if instead of turning all into the ranks they caused the militia to be paid, it would be satisfactory to them, as it would increase the burden of those who have heretofore been free from an equal share.—The militia now labor under a heavy burden; and if they are the bulwark of our country, they ought to be compensated for their services. If we say that a small proportion of the people shall bear all the burden of defence, and are not paid for their services, they have not that protection of their rights which they are entitled to.

Judge Thacher enquired who was to determine what a man's *conscientious scruples* were; and when they were sincere? The Judge said, he was very well acquainted with the Societies of Friends, and for many years while he was at New York, and Philadelphia, he had opportunities of seeing much of their regulations as societies of christians; and to be intimately acquainted with many of them as individuals, and he did not hesitate to say he was ready to go farther than any member had gone in appreciating their principles in general as a sect of christians, and of their individual conduct that it approached, in several respects, nearer to *evangelical purity* than any other sect he was acquainted with; yet he thought they had some errors; though he looked upon them as less pernicious to society than the errors of some other sects.—He declared that he was him-

self against war, and was much inclined to the opinion that christians ought not to go to war ; that he was a friend and well wisher to all the various means lately adopted by associations to prevent future wars by eradicating, softening and giving a new direction to the passions which led to war ; and he had no doubt, as people acted upon pure evangelical principles, they would become averse to war ; and in the same ratio wars would diminish in frequency, and become less cruel in the manner they had been carried on.—But, he said, he did not think it a safe or proper principle for government to adopt, always to leave it to the consciencies of individuals, and simply for them to say whether they will obey a general law or not, and so, on that ground, claim an exemption from a general duty. In the course of forty years, he continued, he had heard a great deal about *conscience* and *conscientious scruples*, in Courts where individuals had appeared to him, but he judged only for himself, to feel more for a small tax to support a minister or to build a meeting-house than of its real repugnance to any of the Laws of Jesus, their real or pretended master—that is contrary to the laws of that kingdom which is not of this world. Of this, however, he was ready to do justice to the Quakers. He had never found them very zealous in making converts from other denominations ; nor did he know of their interfering with other societies by attempting to exempt their regular members from a parish tax by extending to them the *legal* covering and protection of the *mere forms* of their own society, as some other sects had frequently done.—Of which practice he believed he could produce a number of instances from trials that had taken place in the courts of law ; where he thought it was manifest, that *conscience* was but a secondary consideration, and a pretence to get clear of a regular tax.

Furthermore, he said there were already formed societies, and probably others of a like nature and profession might start up, whose professed object is to discountenance national wars ; and, he had no doubt, that if the amendment took place, it would soon become a supposed natural sentiment with their members, especially those who might mistake obstinacy or party spirit, for *conscience*. to plead *conscience* as a ground and justifying reason why they should be exempted from the militia, or some tax they may please to say their *conscience* tells them is to carry on a war. Indeed, he felt persuaded, there could be no fixed limits to exemptions if the amendment became a constitutional principle.

He was perfectly satisfied, he continued, this talk about conscience of which some people made so much noise, in one sect and another, was not clearly understood ; and he begged the attention of the Convention, a few moments, and he thought he should be able to satisfy every member of it, that it was not only an unsafe ground to found exemptions upon ; but that those who have pleaded it, and now contend so much for it, have altogether mistaken the nature and character of their own views of the Christian Religion—But he wished to premise first—that in a country where the christian religion was so generally professed, in some form or other, as to be supported by all the inhabitants, it is not to be presumed that any Legislature would knowingly pass a general law, directly contrary to the laws of their religion, which it is acknowledged in this country, are contained in the Bible—there, and there only must people look for the religion of christians. And in this country he thought all would agree with him that it would be very unsafe indeed to leave it to the opinions of individuals that they could not in conscience obey such or such a law, or pay an equivalent in money or services because they might be of opinion they could shew by reasoning on the common principles of the understanding and of natural theology, that the requisitions of the law were repugnant to the dictates of their consciences. Many individuals may consider a law is not so beneficial to the public, or their particular interests as it might be if it were altered in some respects—or even that it would be better for the community if it were repealed altogether ; but such opinions or *convictions of conscience*, as some may call them, are no legitimate grounds for personal exemptions. Conscience, he thought ought rather to be considered as an *impelling force*, than a *directing principle* in human actions. And where the understanding is uninformed and darkened by prejudices or party spirit, an ardent, zealous temporal man was likely to do as much hurt to individuals and the public by adhering to *his conscience*, as one who made no pretention at all to religion—He alluded to the family of the Dutartres, of South-Carolina ; and to old Calvin, and asked, who ever doubted but the latter acted very conscientiously in the aid and advice he gave to the burning of poor Servetus ? But who, he again demanded, ever committed a more wicked and cruel action ? The torture of the victim was not the less, because his persecutor, through ignorance of the principles and spirit of his professed religion,

might have acted *conscientiously*. He thought it foreign to the point in debate to go into a consideration, how far the criminality of the action would be affected by these considerations. Who ever called in question the sincerity of the *consciences* of the Judges and Jurors who condemned so many men and women at Salem, for *Witches and Wizards*? The Quakers themselves were persecuted by our *pious, godly and conscientious* forefathers; and so were some other sects. Indeed he observed, the whole history of the Church, (not to rest solely on the case of the great Apostle to the Gentiles whose *unlightened*, tho *sincere conscience* is very much to the point, how far it ought to be made the ground of exemption from general civil duty) as well as all party disputes of a political nature amount to a moral demonstration that *conscience* or the *moral sense* is a principle, in human nature, that needs instruction as much as any other of its original principles, and where it is neglected it did about as much hurt as good, and was as often wrong as right; and when wrong, but connected with *erroneous principles of religion*, it never failed to *impell* devotees to the greatest enormities.

But to come more directly to the argument, he said, it might be taken for granted, that the Quakers and others, who claim the exemption on the ground of conscience, do it as Christians, that is, *as disciples and followers of Jesus, and in obedience to his religion*: or in other words they claim to be subjects of his kingdom, and as such cannot render obedience to the laws or requisitions of any other government that are contrary to, or forbidden by the laws of his kingdom. He thought this was the ground they ought to take; and as a christian and brother disciple he was willing they with him should enjoy the benefits of that kingdom to its utmost extent, as Jesus, their common Master and King intended his followers should.

The principle of this claim, he said, was common to all governments. It is acknowledged every day in the State Governments with regard to their constitutions and laws, as related to the constitution and laws of the United States; and in the laws of each state, as related to their respective constitutions—when the laws of Congress are contrary to the Constitution of the United States, or the laws of a State are contrary to its Constitution, or that of the United States, they are void—So any law of man, or requisition under a human law, contrary to, or forbidden by the laws of Christ's kingdom, are null and void—

But the laws of Christ's kingdom, that are to be received by his disciples as paramount to all human laws ought to be clear and express; it cannot be received, as he before observed, that every man's opinion of particular actions being wrong according to some mode of ratiocination on supposed principles of expediency, or general utility, will bring those actions within the case. And it must be recollected that Christ's kingdom is not of this world. He never pretended to regulate things that are called property, according to the laws of particular nations, or the actions of men in but few cases—His laws are over the heart, they regulate the feelings, affections and temper; they take higher ground than human laws; he does not simply say, thou shalt not kill; but purify the heart, and when duly obeyed, make it as unnecessary to say to his disciples, thou shalt not kill, as it would have been for the Deity, on the creation of Adam, to command him not to fly like the eagle. A little attention to some of the precepts that compose the code of that kingdom into which men enter when they become disciples of Jesus, will shew whether they interfere at all with the proposed article in question—He would name a few of them by way of illustration—“Jesus is to be received as the Christ”—“He is to be acknowledged before men; and any denial of him before men is a renunciation of allegiance”—“All his subjects must love one another”—“they must love their enemies”—“they must do good to those who do evil to them”—in other words they should render good for evil—“they must never act from revenge or malice”—“they must forgive those who offend and injure them”—“they must preach and publish the gospel”—“they must on all occasions obey God rather than man.” Now all these, with the rest of the code, too numerous to detail, but of the same character, the apostles, in their various epistles, explained and enforced consistently with obedience to the general laws of the empire. And wherein, at this time, is the command of government, that all its citizens shall contribute to its support, repugnant to, or forbidden by any of the precepts just recited, or of any others of the heavenly code? For the vesting the legislature with authority to call upon all its subjects to perform militia duty; or pay a sum of money for an exemption, ought to be considered only as a mode of national defence; and will any one of this Convention say, that a national defence, when attacked by a public enemy, is unlawful? Let them then who contend for the *exemption* on the ground of the demand being against conscience, point out the

law in the christian code which clearly prohibits, or means counter to the requisition, and he would give up his opposition and support their cause: for he believed he felt as much repugnance to a wilful violation of his Master's commands, as any of them.

Every Quaker and Baptist, indeed every disciple of Jesus, ought to act in the common affairs of life, and in all their intercourse with the governments of this world under which they live, in the same manner as they have good reason to believe their King and Master would, were he in their particular situation. And fortunately we are not left in the dark on this subject. The general conduct of Jesus in his intercourse with society, as well as his laws and precepts, are for our instruction and direction in like cases: and his disciples may safely regulate their intercourse with the existing governments, by the examples he has left them on record.

The Judge said he hoped every member of the Convention would attend to the authorities he was about to cite, for in his mind they had great weight, and seemed to him conclusive on the subject in debate.

It would be recollected, when Jesus, with his disciples, was returning from Galilee to Jerusalem, they entered into Capernaum; and they who received tribute came to Peter and asked him, if his master paid tribute? And he answered them, that he did; and when Peter was come into the house, probably to get some money of Jesus; but Jesus, knowing what he wanted, prevented his question, by demanding of him, of whom the kings of the earth took custom or tribute? of their own children, or of strangers? Peter answered, of strangers: Then said Jesus unto him, the children are free. Nevertheless, continued Jesus, lest we should offend them, go thou and cast an hook into the sea, and the first fish that cometh, take it up, and on opening its mouth thou shalt find a piece of money; take it and give it unto them for thee and me.

Now, said the Judge, can there be a more direct authority, as lawyers say when they cite precedents, than this is to the point in debate? Here was demanded of Jesus and his disciples, an unlawful tax, but rather than make any dispute about it, a miracle was wrought to get money to pay it. He continued that he did not see how the principle of the authority can be avoided, unless those who contend for the amendment should say, that the tribute demanded of Jesus and his companions, was a tax laid

by the Jews themselves towards the defraying of the expenses of the temple, and so being a lawful tax according to the law of Moses, it was legally binding on Jesus and his disciples, they being Jews, and the temple worship not yet being fully abrogated. And if any member should take this ground to avoid the application of the authority, he was ready to reply and support the application.

But he must beg the attention of the Convention a few moments longer, and he would produce another text, by way of authority, which he looked upon free from all objection whatever. It was from the same reporter, Saint Matthew, chap. 22. The Pharisees took counsel together how they might entangle Jesus in his talk, and so they sent out to him some of their own disciples, with the Herodians (the Judge observed it was probable these Herodians were among the leaders of a party who adhered to Herod their King, and might, on that account, be somewhat attached to the Roman government so long as it supported Herod and their party) and they addressed Jesus by calling him Master, and, in words, at least, acknowledged that he was a teacher sent from God, and that he cared for no man. Tell us, said they, (what they thought of great importance to the nation of the Jews) *was it lawful or not to give tribute to Cesar?* And there can be no doubt, but they expected he would answer, yea or nay. If he had answered in the affirmative, then the Pharisees would have charged him with being a friend to the Romans, and an enemy to his own people the Jews; and if he answered in the negative, then the Herodians would have faulted him as a disturber of the existing administration. But Jesus perceiving their wicked and fraudulent design, said to them; shew me the tribute money; and they brought him a penny—and he demanded of them whose image and superscription was on the coin? And they said, it was Cesar's; then said he unto them, render unto Cesar the things that are Cesar's, and unto God the things that are God's. The Judge observed, as long as he had been conversant in courts of law, he did not recollect ever to have met a case so completely proved by authority of precedents as the present case is by the two examples of Christ's conduct now quoted. He continued that it might be fairly inferred from the last that Jesus did not look upon money, that is, the circulating coin of a nation, as a matter within the jurisdiction of his kingdom, or as having any value set upon it by his laws. All the value it had it received from the authority of the Emperor, that

is the civil power over the kingdom of this world ; and whenever he or his officers should call for any portion of it, let it be in whose hands it may, if the demand be made according to the general regulations of the empire, it was the duty of the holder to give it up ; and the paying of it would not be considered by Jesus himself as an action forbidden by, or contrary to any of the laws of his kingdom.—He desired the New Testament, where are recorded the laws of the kingdom to which christians belong as disciples of Jesus Christ, and are often explained and enforced by his Apostles, might be examined, and the law or precept pointed out which is contravened by a holder of Cesar's coin paying it to discharge a legal tax to a collector. This he said, he thought, could not be done.—To pay the tribute actually demanded of Peter and his Master at Capernaum, or the taxes figuratively alluded to as having the stamp of Cesar on the coins were simple actions necessary in civil society to support government on the part of those who demanded, as well as those who paid it, without any reference or implication whatever, whether Jesus was the Messiah or not ; neither was the money demanded with an intent that the payment should be considered and taken advantage of as evidence of a denial of Christ before men ; or as evidence that the man paying the tax was thereby to be considered as obeying man rather than God. So, in the present case, under a militia law where citizens are called upon to learn the military art by exercising and manœuvring with arms in their hands a certain number of days in the year, or to pay a small sum of money to compensate those who do, and thereby to be exempted themselves, the sole object of the Legislature is to provide for national defence, and the Judge said he thought national defence, and consequently, a preparation for it, could not, on any rational construction of scripture, be looked upon as an action forbid by the laws of Christ's kingdom. These and such governmental requisitions necessary for its support are altogether different from the requisitions made by the Roman government through the empire, in after persecutions ; when christians were called upon to do some act, such as *throwing an handful of salt into a fire on a heathen altar, or offering a sacrifice, or bowing to the image of the emperor*, all which were demanded, and it was expected they were to be performed intentionally as plenary evidence of a denial of Christ before men ; and a willingness to obey man rather than God ; and which were prescribed as the only means of saving their lives and their worldly estate. On the foregoing principles

and considerations, the Judge said, when he heard of a Quaker, Baptists, Methodist, Unitarian or any other denomination objecting to a tax, legally made, to support a minister, or to exempt from military duty, on the *ground of conscience and as disciples of Jesus Christ*, he could not, after the most serious and deliberate investigation of the subject, but think they entertained very mistaken notions of *conscience*, and that their views of religion and civil intercourse were very much confused. In this opinion, however, he did not mean to call their *sincerity* in question. For he was perfectly satisfied, from philosophical considerations and history, that *sincerity*, might, by habit, become associated with *error* as well as with *truth*. The Judge then observed, he wished it to be expressly understood by the Convention, that he did not mean to oppose the exemption of Quakers, and all his observations and reasoning were intended to oppose the allowance of the exemption on the *ground of conscience*, as had been contended for by some of several denominations—And so far he thought both reason and scripture supported him.

There was another ground on which he was clearly of opinion the sect of Quakers might claim an exemption ; which was that their society, as a sort of religious government peculiar to themselves, did render to the government of the State an equivalent for military duty, in that they always took care to have no poor people, or if they had any, they maintained them themselves. He had never heard of a pauper Quaker being maintained by a town. He was inclined to think their christian principles had such an influence on their hearts as to lead them to provide for, aid and assist one another in all the arts of useful living so as to preclude what is commonly called *pauperism*. He said the quakers have always been known and distinguished as a body from all other people, as much as the followers of Christ were in the apostolic age ; and they are now equally distinguished as individuals and a society. When it is proved that a person is of that denomination, it follows of consequence that he is opposed to war ; there is no need of his making a declaration of his *personal conscience*, he believed it to be amalgamated in their common creed ; and this he believed could not be said of any other sect and society in the Commonwealth. Though he believed the Moravians, or united brethren as they are called, had made it an article of their creed, not to fight. But he knew none of that sect in the State.

He continued, that it was suggested to him at the moment,

that the Quakers educated their own children and had very little or no benefit from the town schools, though they were generally taxed for that purpose. He knew this to be the case in some large towns where there were many of that denomination living compactly, but he had not heard how it was in the country towns.

He added, whenever any other sect of christians should become embodied and distinguished as the Quakers are, and afford the same evidence from their known principles and practice that war was their aversion and like them in consequence of their principles render an equivalent, he should be ready to vote their exemption, as he now was that of the Quakers. But it must not be an *hypocritical conscience*; or where individuals, here and there, sometimes of one denomination, sometimes of another, and about as often of no fixed state of religious worship whatever, start up, in times of a national war, or when taxes bear heavily on the community, and proclaim *they cannot in conscience* meet in a militia company, and *their consciences tell* them they ought not to pay an exemption tax, or a parochial tax, he was ready to acknowledge, he had very little faith in such time serving *consciences*. And he said he could not refrain from observing that these kinds of *tender consciences*, of late, seemed to increase, and extended to almost every requisition of Government.—He had lately known some to claim an exemption from acting as jurors in capital trials, on the ground of *conscientious scruples*; and another who did not see his way clear to take the oath or affirmation of a grand juror, *merely* because *it was impressed on his mind* that he could do more good than by spending his time that way. These kind of consciences, he said, stood in need of instruction.

Col Atherton, proposed to exempt the militia from a poll tax.

Mr. Hall said, this would bear very unequal upon poor, compared with rich towns. It had been observed that it would operate unequally, because there are many who are now forty five years of age, and have served out their time in the militia and will have to pay their proportion of a tax. This is true, but shall we, for this reason, continue to do wrong? Let us be the first State to pay the militia. I hope it will pass and so render the burdens equal.

Col. Moore, of Clinton, expressed himself in favor of equalizing the burdens of the people. The Convention adjourned without coming to a decision.

AFTERNOON.—The motion to strike out the 5th section being still under consideration, Mr. Hall so varied his motion, as not to strike out, but add to the section, “and the militia required by law to bear arms shall have a reasonable compensation for their services;” and moved to have the vote on its acceptance taken by yeas and nays. This motion was negatived. The requisite number not rising in favor.

The main question was then put on accepting the amendment, and decided in the negative, 74 to 124.

Col. Atherton then moved to strike out the section and substitute the following :—“No person of the age of eighteen and under the age of forty five years shall be exempted from the performance of duty in the militia, excepting the Justices of the Supreme Judicial Court, officers of the militia who have been superseded or honorably discharged, and such other persons as are or may be exempted by the laws of the United States, unless he shall pay an equivalent, which said equivalent shall be paid to such officers as a fund for clothing and equipping the militia and apportioned in such manner as the Legislature of the State may direct.”

Col. Atherton. It will be perceived by this section, that altho’ it seems to purport that certain civil officers shall not be exempted from military duty—yet, on a closer examination, it will be found to mean only, that such persons shall not be exempted by reason of holding any civil office, but for any other reason, or without any reason the Legislature may at its pleasure create exemptions. This will not be denied to be the fair construction of the section now before the Convention. Sir, I am altogether opposed to leaving this extensive power over such a numerous body of our fellow citizens in the hands of the Legislature. I am opposed to it, because we have already felt the direful effects of the unrestrained exercise of this power by the legislature of Massachusetts—It is our business to protect equally the rights of all, and so to guard them by the Constitution that the Legislature cannot violate them without transcending their authority. Sir, permit me to read the long list of exemptions which now exist in this State, and that too under a constitution, which it is expressly declared in the bill of rights, “that each one shall give his personal services or pay an equivalent when necessary;”—perhaps, not the precise words but their import. (He then read the list of exemptions.) I shall begin with those officers who enjoy salaries. Why, Sir, should

they not be enrolled in the militia—why not perform military duty or pay an equivalent for the use and benefit of those who do? It costs the poor and laboring class of the community who chiefly compose the militia, at least 12 dollars per ann. for each man—Is any other class of citizens taxed thus? No, Sir—where then is the justice of it? Why not equalize the burden? We next come to a host of justices of the peace, no less than 2500; enough Sir to form an army—and for physical strength and intelligence, the fittest subjects in the State to fill the ranks of the militia—Sir, I would compel these men to perform military duty—I would so raise the character of the militia that it should be considered disgraceful not to be enrolled in it.

I am aware, Sir, that strong claims for exemption will be put in by that class of society called “Friends or Quakers”—That arguments will be produced in their favor on account of supporting their own schools and their own paupers. But, if we go on to exempt all those conscientiously scrupulous of bearing arms, what will become of our defence?

I believe, Sir, that every man can take the oath or affirmation prescribed by this Constitution with as much propriety as can a Quaker, because all men are conscientiously scrupulous about taking the lives of others. Yet the state of society and the practices of the world require it in self defence and for the preservation of our rights and liberties.

It has been a fashionable practice, to scoff at the militia and to undervalue their services—Sir, they have done their full share towards exalting the character of their country—Shall I direct your attention to the events of the revolutionary war—Who but the militia, the poor despised and degraded militia, won our independence? Who in the late war beat back the British at Baltimore? Who were the conquerors at New-Orleans? Who twice repulsed and finally defeated the conquerors of Waterloo? I answer the militia. The battle was scarcely ended, when our militia men were seen passing to the battle ground with refreshments for the British wounded and with that humanity which distinguishes while it exalts the character of the generous conqueror, brought the wounded, under a fire still kept up by the enemy, within our own lines. An instance of heroic gallantry unequalled in the days of ancient chivalry.

Let us then protect the rights of this estimable class of our fellow-citizens—and let those rights be defined in this Constitution. As to exemptions it is our duty to prevent them, and to

compel, the services of every citizen not exempted by laws of the United States, or the payment of a just equivalent to be appropriated to the purpose of uniforming and equipping the whole militia of the State.

• This amendment was lost, 101 to 123.

Col. Atherton gave notice that he should move for a reconsideration.

Rev. Mr. Francis now moved to amend by striking out the section and inserting, "Persons whose religious sentiments forbid their engaging in war may be exempted from military duty, but no person except the Justices of the Supreme Judicial Court shall be exempted by reason of holding, or having held, any civil office under the State without paying an equivalent."

Mr Emery. Mr. President—with the most profound respect for the sect called Quakers and a disposition to give them all they are entitled to. I am entirely opposed to that part of the section which goes to exempt them from paying an equivalent. I am opposed to it, Sir, on the ground that it is wholly deceptive—holding out a hope which will certainly deceive them. As it is expressed they *may* be exempted from military duty. If we say any thing let it be *shall*. But, Sir, I have thought it to be one of the first principles of our association, to require the personal services of all or an equivalent. This is the principle which governs in other States. How is it in Pennsylvania where so many Quakers live? All that is provided by their constitution, so far as I know, is, that all shall be required to bear arms; and if any are exempted, they shall be required to pay an equivalent. If the Quakers and Shakers are left to the Legislature, they will do them justice. Will this provision not point them out as obnoxious? It was said, with a smile, that the Shakers contributed nothing to the increase of mankind and very properly refuse to aid in their destruction. But would not the Quakers bring up an hereditary distinction, repugnant to the constitution? It is not out of any thing unfriendly to the sect, that I would wish that nothing invidious shall be held up in their favor. I believe all (which they ask for) may be yielded in their favor. If, on account of their excellence in agriculture, the arts, &c. they are entitled to consideration, I am disposed to make them proper allowance. I do not know the policy of the provision, but the question has been presented to us on the ground that they pay an equivalent, but it is not so expressed. They are excellent citizens, but not the only ones. They have been

hardly dealt with, and I should be glad to contribute to relieve them from the obloquy which has been in the first settlement of the country heaped upon them. And I should be willing in some measure to compensate them for their benevolent and useful services.

Mr. Holmes. If I have been so unfortunate as to provoke a smile, it is my misfortune, not my fault. It is not my intention to provoke a smile at the expense of any denomination of men. I do not believe that ridicule is always the test of truth.

As it regards the proposition on serious grounds, if I considered it as being deceptive, or holding out false colors, I would strike it out. For I hold it to be an indispensable duty to hold out no false colors, in this instrument, which we are about to present to the people. But, Sir, what is there deceptive, only to say to the Legislature, you may exempt Quakers and Shakers from military duty, upon paying an equivalent? It is not in ordinary times, but only in the last resort, that they should be called on to contribute to the common defence. To compel them to go into the ranks of the militia, or pay an equivalent, would not certainly bring them into the State, but I think it would drive them out. They know that fighting and paying to fight are the same thing. How much pleasure, how much gratification could it afford any gentleman of this Convention, to see a poor innocent Quaker dragged before a Court of Justice, and thence committed to prison, to compel him to pay an equivalent for not doing what his conscience tells him he ought not to do? They have ever stood firm to this principle. And it is only in the extremest cases—when the ultimate safety of the State is in danger—then you may take their property to dispose of for the defence of the State.

Mr. Francis' amendment passed in the negative.

Col. Atherton presented his motion again with an alteration to include Ministers of the Gospel, and leaving out the last clause respecting a fund, &c.

Mr. Preble. The subject before the Convention was one with which he did not profess to be much acquainted—nor should he have troubled the Convention with any remarks of his, were not the subject peculiarly interesting to a large and highly respectable class of his immediate constituents. The system of exempting from militia duty had been carried so far, that the operation of the militia laws had become very unequal. Those,

who were most able to bear the burthen, generally bore no part of it. To render it perfectly equal, every man of suitable age should perform the duty, or pay an equivalent. It was in its nature a personal service. Each citizen, by performing that service, contributed his full and just proportion and no more. He did not consider the ordinary militia duty as a military service rendered the State. Our militia trainings were intended as a school in which to learn the military art. It is, by the constitution of our country, intended as part of the education of every American, that he should know the use of arms—that he should learn so much of the art of war, as should enable him to render efficient aid in defending his country, whenever his services should be wanted for that purpose. From this obligation he saw no reason for exempting civil officers on account of their holding offices. If other duties were required of them, they had also other compensations. But he would exempt the Judges of the Supreme Court on account of their peculiar situation, as the Court of last resort. He would also exempt Ministers of the Gospel, and leave it in the power of the Legislature to exempt those who were conscientiously scrupulous of bearing arms. With respect to the equivalent and the disposition of it he thought it had better be left to the Legislature. He agreed with the gentleman who proposed the amendment in his general views of the subject, but did not feel satisfied with his proposition in all its parts. If such modifications, as he had suggested, should be made, he would then vote in favor of the amendment. For as all were interested in protection, all ought in some way or other to contribute to the support of a system, the sole design of which is to ensure that protection.

Col. Moody hoped the motion would not prevail. It would open a field for much litigation. Who, asked Col M. is to decide who are ministers of the Gospel? Then all officers of the militia who are superseded are to be exempt: But who they are, is not precisely determined. And shall they be discharged from all military duty or payment of an equivalent? I did hope, Sir, that the report would pass as it is. I have had something to do with the militia, and am disposed to relieve their burdens which are very unequal. But to say you shall exempt certain men from military duty is not necessary. To make them pay an equivalent would be sufficient. It was enough to say the Legislature may make exemptions. Why we should be afraid to leave it to them I do not know. They will do what

they ought to do. I hope we shall neither oblige the Legislature to exempt any persons or to pay an equivalent.

This motion was negatived, 124 to 103.— It was then altered so as to include Quakers and Shakers, &c. and lost, 132 to 29.

Gen. Chandler I did not intend to take up a moment's time on this subject, but feel bound to make a few remarks. It must be perceived that the burden borne by the militia is the most unequal tax that ever was imposed on the community. You see a man not worth five hundred dollars, with two sons who he is obliged to arm and equip, and who are obliged to do military duty—while another man worth fifty thousand dollars, is wholly exempted. Others have conscientious scruples; but I think, Sir, they ought not to be exempted without an equivalent. We ought to look to the militia for the defence of the State. I will say, that it will not be improper to impose a tax of five dollars on every one who is exempted, as an equivalent. So important is this subject, that I hope gentlemen will take it into serious consideration, and fix it in such a manner that the Legislature cannot exempt any portion of citizens from an equal share of the common burden.

Gen. Chandler then moved the following amendment, to be added to the section:—"And all persons borne on the rolls of any company of militia and doing military duty therein, shall be exempted from their poll tax in the State and County taxes, during the time they shall so do military duty.

This motion was lost, 106 to 124.

Mr Holmes moved to strike out the word "shall" and insert *may*, which passed in the affirmative, 162 to 14.

Section 5th then passed as amended.

On motion of Mr. Holmes, the Convention voted to adjourn to 7 o'clock this evening, 124 to 96.

EVENING. Article VIII—*Literature*, was taken into consideration.

Mr. Stockbridge, of North Yarmouth, moved to amend this article by striking out the *Proviso*, which was—"Provided, That no donation, grant or endowment, shall at any time be made by the Legislature to any Literary Institution now established, unless at the time of making such endowment, the Governor and Council shall have the power of revising and negativing the doings of the Trustees and Government of such Institution, in the selection of its officers and the management of its

funds;" and inserting a substitute, which he read in his place, which went to provide that the Trustees, &c. might be removed for the mis-application of their funds.

Mr. Holmes. This provision does not go so far as the common law. If the institution misapply their funds, you may by a writ of *quo warranto*, issuing from the Supreme Court, remove the Trustees and declare the funds forfeited to the State.

This motion was negatived.

Mr. Shepley, of Saco, moved to strike out the words in *Italics*, and insert the following :—"The Legislature of the State shall have the right to grant any further powers to, alter, limit or restrain any of the powers vested in any such Literary Institution, as shall be judged necessary to promote the best interest thereof."

I am opposed, said Mr. S. to the provision in this article, as reported. It would be extremely embarrassing to have two bodies of men controlling the same Institution—for the Governor and Council to be looking into their proceedings and negativing the doings of the Trustees and Government. I think, Sir, the Legislature is the proper authority to secure the appropriation of funds, granted for the purpose of education, to their proper objects, and that the stability of such institutions should not be shaken at the will of the Executive department. I wish the Legislature to have the power to see the funds properly applied; but having done that, let it be managed by those to whom it properly belongs.

This amendment, said Mr. S. does not give so extensive a power, as many States have provided for. I have known the Legislature to exercise the authority of annulling powers granted by charters, where the misconduct of trustees has produced a violation of the conditions of the grant. I do not wish to go so far. I would not have charters taken away or modified at the will and pleasure of the government of the State. My object is, to provide a security against, or a correction of abuses, and to restrain the governors of such Institutions from perverting their powers. But I would have them act independently in the performance of their executive duties. Literary Institutions should be permanently established, in order to enable them to manage their concerns with that system which is so important to the attainment and perfection of their design. But Legislatures as well as Executive Officers are continually changing and can know nothing of the mode of study and discipline pursued

in Colleges, which if subjected to their power would be liable to corresponding fluctuations in their plans, that would frustrate objects of their establishment.

Judge Dana. Mr. President—I rise, Sir, in support of the amendment of the gentleman from Saco (Mr. Shepley.) Well has the gentleman on my right (Mr. Stockbridge) remarked that this subject creates no inconsiderable degree of excitement. I rejoice that it does, for no subject has, or can come before this Convention of deeper interest to the State; whatever constitution we may form and send out to the people, however excellent it may be in other respects, unless it contains ample provisions for the education of our youth, it will be materially deficient. On the literature and literary institutions of a country or State, its happiness and prosperity greatly depend; and not only its happiness and prosperity, but I may add, its respectability and celebrity.—How often are the most meritorious actions, the most brilliant achievements, buried in oblivion for the want of a recording pen? While on the other hand, we often find the splendor of the hero, or the fame of the patriot, obscured by the less brilliant, but more steady flame of glory, that surrounds him who records them.—Greece had her chieftains and her bards; the *latter*, in perpetuating the deeds of the *former*, gave to themselves a deathless fame. The mistress of the world had her Romuli and her Cesars, but the learning and eloquence of one of her citizens has given to Rome an imperishable glory, and to Cicero a name and memory that will be cherished and revered, when the splendor of her mighty warriors shall be lost in forgetfulness. If these, then, are the fruits of literature, is it possible that we should be indifferent to a subject so inseparably connected with the vital interest of the community?

The reported article, as amended, makes ample provision for the establishment of the various institutions of learning, necessary to the public welfare, and at the same time contains the salutary checks to prevent the abuse of the powers given to those, whose duty it shall be to manage and direct them. In a free government, resting on the virtue and intelligence of the people, the public has an important interest in the education of the youth; and I am gratified, that we are about to begin this great concern as we ought. If we engraft this article into the constitution, we shall commence this work at the foundation. The duty will be imperative on towns to maintain *free schools*,

at their own expense—these primary schools will be the nurseries of our great men and distinguished citizens—*here* the children of the poor, the unfortunate, as well as of the competent and wealthy, will be associated and taught together, not only in useful learning, but what is equally important; they will practically learn the great principles of *equality* and *subordination*, and that merit alone is the passport to preferment. Experience and observation clearly shew, that talents are not hereditary, and that greatness is not of lineal descent;—that the brightest geniuses are often struck out of obscurity, and the noblest minds found and nurtured in poverty and wretchedness. These germs of future eminence should receive the fostering care of the public; they should be taken by the hand and led in the paths of virtue and learning to places of usefulness and honor; then, instead of remaining in degradation and want, they might become the pillars of the State and the ornaments of society. In addition to the means of support of these schools derived from towns, it is anticipated that the wisdom of future legislators will, as soon as the finances of the State permit, grant permanent funds for their constant maintenance. It will also be the bounden duty of legislators to endow and support academies, colleges, and other seminaries of learning, as the public good may require—and also to shape the general course of instruction, and see that nothing therein should be taught contrary to the principles of our government; and it is also to be hoped, that while the youth at these institutions admire the martial deeds, the eloquence and classic taste of other nations and other times, and gaze at their imperial greatness, they will be taught the instability, the cruelty, and ingratitude of those governments, and learn to love their own country, and cheerfully devote themselves at her call. They should hear something of our own distinguished worthies, and learn to emulate their virtues and copy their usefulness; then, indeed, would learning become the handmaid of her country's happiness and glory. And can all this be done while the management of our literary institutions is exclusively in the hands of individuals, whose views *may be* adverse to the best interests of the government and over whose conduct the State shall have no controlling power? I apprehend not. Let me ask what inducement the government can have to grant funds, unless there is a pledge that their munificence will be faithfully applied? And if individuals, who found and endow charitable and literary establish-

ments, have a visitorial power over them, why should not the State have the same power over those institutions, which derive their very existence and support from it? Hence arises the necessity of placing in the palladium of our rights one so very essential to the prosperity of the community; and this provision is contained in the amendment now under consideration; but I am aware, Sir, that I shall be met with objections at the threshold—I shall be told that our seminaries of learning need none of these guards and checks, that they will succeed best when least shackled with *State regulation*, and that they have prospered when the State had nothing to do with their government: besides, I shall be farther told, that if abuses should arise, the Judiciary is the proper tribunal to correct them.—To these I reply, that however prosperous and useful these institutions have been, where the State exercised no control over them, it by no means follows that they will continue so; they are yet in embryo, and we cannot judge what *will be* from what *has been*; if we look to their origin we shall find that they sprang from individual patronage and local exertion, and their management has been committed to their founders and benefactors, and they have prospered while under *that influence*; but when the government of them shall go into other hands, influenced by other motives, instead of a single eye to the public good, the object of inquiry among the Trustees (who have the right to perpetuate themselves and successors in power) will not be, who will most benefit the institution, but how shall we best serve our own purposes by filling vacancies with our personal, political, or ecclesiastical friends? Establishments of this kind, in this section of the country, are yet in their infancy, and we ought to provide for the infirmities and decrepitude of age, as well as for the weakness of childhood and youth. The absolute and uncontrolled power given to Trustees to perpetuate themselves and successors in office, without any check upon them, in some future time will be considered as obnoxious to the community, and unfortunate to the institutions themselves; as they can never expect the public munificence, without the public confidence. If the perpetuity of office is continued without a legislative control, favoritism, instead of merit, will decide the claims of candidates, and the successful recommendation to office will be, political or religious sentiments, or family connections;—and before the expiration of half a century, it will be found, that if our numerous Boards of Trustees are not con-

verted into political junta or religious hierarchies, they will be twisted up into indissoluble knots of family connections, who will consult their own gratification and interest, rather than the public good. If it is replied that the judicial authority will correct these abuses, the answer is, that these are evils which the judicial authority cannot remedy; as it is only in cases of a violation of the charter, that these Trustees will be amenable to that tribunal, and as in these cases, their judgment would be formed upon decisions, received from a country where their literary institutions are differently founded and governed, and their objects in some respects different from ours: theirs being shaped and modelled to monarchical, and ours to a popular government; and these decisions, inapplicable, uncertain and contradictory, would be unsafe guides to our Courts, in so important a concern, and under circumstances so mutually different; besides a decision against the Trustees operates as a forfeiture of the charter, so that instead of correcting the injury done to the institution, it would go too far, and destroy the institution itself; this remedy, therefore, if obtained, would be worse than the injury complained of, and of course would never be sought. By the highest judicial tribunal in our country it is decided that these literary institutions are independent of the government of the State, in which they are situated, and which has founded and endowed them, (whether this decision is predicated upon, and better adapted to the genius of the government of another country than our own, is now immaterial, as it is of binding force throughout the Union) and unless this Convention engrafs into the constitution a provision to the contrary, it will be of binding force here; and then, Sir, may we not be called to witness the same scenes, which have recently transpired in an adjacent State? It may perhaps be thought impossible among us, that a lean majority of twelve Trustees, of one of the most respectable and useful colleges in the Union, should be found, who would assume to themselves *personal rights* in the funds and their management, and the exclusive control of all the college property; refuse to submit to the laws and government that protect it, and deny the authority of the State that gave it birth, and by whose munificence it now exists; and that this majority, in derogation of the sovereignty of the State, and in defiance to its laws, should be tolerated by the solemn decision of the highest judicial tribunal in the country. If all this appears *now* to be impossible *here*, so it *once did* is

the small but patriotic State of New-Hampshire, whose intelligent and independent citizens, refusing to submit to the arrogance of the majority of the Trustees of their only college, commenced the work of reformation in its management ; and although they were unsuccessful in the attempt, yet their discussion of principles has excited a spirit of inquiry throughout the nation, which will not be extinguished, I trust, till salutary reformations take place in our literary institutions.

If the decision above alluded to should be in force among us, and our seminaries of learning should thereby be rendered independent of, and without the control of our State government, from what source could they expect to derive funds ? And how could they succeed without them ? They would decay, like perishing plants in a barren soil, without moisture and fatness. To avoid the want of funds, on the one hand, and the abuse of them on the other, I hope we shall adopt the amendment, which places the visitatorial power of these institutions in the Legislature, where it will be more permanent, and less liable to abuse than with the Executive, and more safe and satisfactory to the community, and beneficial to the institutions themselves, than if they were under the exclusive control of their Trustees.

Judge Parris. Mr. President—It is with diffidence I approach this subject—But I must say that I do not agree with the gentleman from Saco, (Mr. Shepley) as to the extent of the control which the State ought to have over our Literary Institutions. I am in favor of retaining some control over and connexion with them ; but for what purpose ? To prevent abuses in their management of their funds. If I understand the purport of this amendment, it is to exercise a control over their charters. Sir, I will state my views of the government which ought to be exercised over the College—for it is Bowdoin College which is the object of this provision, and we may as well name it, as keep it out of sight. I am willing you should control Academics and Schools which are endowed by the State. And no person would go further than myself in supporting them, and no one is more sensible of the policy of giving them all the encouragement in our power. I would go so far as to compel the Legislature to endow them liberally, and then give them the power to prevent abuses. But my views do not extend so far as to preserve the right to suspend their charters. We must be incorrect when we make the attempt. By the present charter of Bowdoin College, there are two boards, the Trustees and O-

verseers. The latter has a superintending power over all its concerns, and the ultimate control over its funds. There cannot a dollar of money be appropriated, or a vote pass, without the sanction of the board of Overseers. It has been my wish to establish such a connexion with that Institution, that some of the officers of the state government shall have seats in and constitute a majority in that board. This would give a sufficient control ; a control which would carry into effect the objects of the institution, and support, instead of destroying it. And I would not grant them one acre of land, or give them a dollar in money, until this was done. But, Sir, what is the object of this amendment ? After they have spent the money and squandered the funds designed for the education of youth—then you will *amend* or *alter* the charter. Instead of this, I would take measures to prevent abuses, or furnish a remedy less severe than that proposed. We should be jealous of them, and keep them from perverting their powers. I would have a majority in one of the boards, that they may depend on the people for the approbation of their proceedings. Which is the best, sir, to give to the Legislature the power of *extending, altering, limiting and restraining* the charter, or adopt the proposition which I have offered to prevent the abuse ? The course which I have recommended is safe, both for the College and the people. I feel some attachment to the institution, and I feel a disposition to give it a helping hand : and I would place a guard around them that they may not squander their property. Of this I am certain, nothing will be given, until the people have in some way the control over this institution. But I am not sure it will be safe to amend the article as reported. Now it is said, that the members of the government, whom I would wish to introduce into the board, would find it inconvenient to attend its meetings, and might neglect to attend to their duties as connected with it. I wish the Trustees to have a board at their back, to check and revise their proceedings ; and to remove this objection, I would have the annual meetings of the Overseers, held at the seat of government, at the time of the annual meeting of the Legislature. This I think will make it safe for the State, and if not, I can devise no method of rendering it so.

Mr. Holmes. Mr. President—The subject before us is solemn and important. To provide for the education of our youth, "to rear the tender thought, and teach the young idea how to shoot," to take our children by the hand, and lead them on in

the paths of wisdom and virtue, the object should be pointed out, and the obligation impressed on the Legislature. And I congratulate this Convention on the opportunity they have for prescribing a duty to their legislators, which if properly performed, will preserve our republican institutions. It is a duty taught us by our ancestors, and I trust we shall be so far impressed with its importance, as to transmit it to our children. It should be cherished as the apple of the eye.

I confess I felt mortified at the provision in the act of separation imposing on us shackles in relation to this subject. Sir, are we in leading strings? Are we too ignorant even to be made sensible of the importance of knowledge? And does Massachusetts *therefore*, undertake to prescribe for us?

What will be the consequence of this provision? To create a jealousy, and withdraw our patronage from Bowdoin College. I think the government of the College are aware of it, and will be willing to give up the odious provision. We cannot confide in those who are afraid to place confidence in us. Ought there to be a literary institution in a State not subject to the control of the laws, nor subservient to the government that protects it? Why should this institution, more than any other, be beyond our reach? It is dangerous to place too much confidence even in friends. Having acquired the power, they may defy the authority from whence it was derived.

All literary institutions should be placed on the same footing, and be governed by the same principles. To retain the right to enlarge, restrain, or regulate a charter by law, is safe and wise. The people are not so fickle or unreasonable as not to be trusted with this discretion. Your constitution has provided sufficient checks upon the inconstancy or passions of the people. Should your popular branch be disposed to infringe these chartered rights, the senate and the executive would hold them in reasonable restraint.

Why then should not we have the control? This is not untrodden ground. Look at the Constitution of Massachusetts, and witness their cautious reservations in the different charters to Harvard University. Look at the provisions even under the province laws. Look at the very act establishing Bowdoin College, which contains greater reservations than those contemplated in this amendment. [Here Mr. H. read parts of several laws alluded to, and particularly the act establishing Bowdoin College.] Sir, I see no good reason why we should not exercise

similar powers. We should never make any grant of money to any literary institution, unless we could in some way have a voice in its expenditure. The gentleman from Portland, (Mr. Parris) seems to be alarmed at legislative control; and is apprehensive that our interference will be troublesome, and that it might be better to confide the *visitatorial* power to the Governor and Council—Sir, I prefer the mode prescribed by the amendment. If the College at Brunswick prefers to proceed on its present basis, it has its choice. I am for letting it alone, until it shall come forward and ask for aid, and if it will couple its request with a relinquishment of this odious provision, I would grant it.

It is our duty and it will be our inclination to protect and foster this institution, as soon as it shall submit to our authority and put itself under our protection. Should funds be granted, I would give it a large share in *Benjamin's mess*. But if it throws off its allegiance and claims the protection and patronage of a foreign State, I would not yield it a cent.

The gentleman from Fryeburg has alluded to the doctrine established by a late decision of the Supreme Court of the United States. It goes to set up a literary institution, beyond the reach or control of the laws of a State. Let gentlemen be warned by this dangerous result. Let them never tolerate any power but that of the United States, within their jurisdiction, that shall be above their control. The time may come when creeds may be established, sects created, and parties built up, dangerous and destructive to the safety of the State and the liberties of the people. Corporations may exist, with power to fill their vacancies and perpetuate their existence. Against such evils we ought now to erect an effectual barrier. I hope the motion will prevail.

The amendment was adopted by 151 to 18, and the article passed as amended.

ARTICLE IX.

GENERAL PROVISIONS.

Sect. 1. passed with an amendment in the form of the oath, and relating to qualifying the Governor and Counsellors.

Sect. 2. Gen. Wingate moved to insert Quarter-Master General.

Judge Thacher said, he was very little acquainted with military matters, and as he was against wars and fighting he troubled himself as little about them—but he did not wish to see men

well qualified for legislation unnecessarily kept out of the Legislature. So far as he understood the qualifications and duties of a quarter-master general he did not see any incompatibility in them to the duties and situation of a legislator, or of a representative—He was very much inclined to the opinion that a man well versed in military affairs, as he thought a quarter-master general ought to be, might carry much important information into a Legislature; and such knowledge as they would always be desirous of obtaining so long as nations should be disposed to make war upon one another—He did not see how he could do any hurt with his official knowledge by being one of an hundred representatives, that he could not do as effectually by *out door influence*, though he was not a member of the Legislature. And in either case, it is going upon the supposition that he is a dishonest and unprincipled man; which he was not disposed to believe would very often, if ever, be the case. Any body else might be suspected and distrusted as well as a quarter-master general, though he had no office. For his part he observed, he hoped the new government would commence with *great confidence in all the public functionaries*—He believed that was more likely to get honest, upright men, than a settled temper of suspicion and distrust. He said the people had put great confidence in the members of the Convention, and he did not see why members of the Convention should suspect there was any more reason for guarding the people against electing certain officers into the Legislature as representatives, than there was against electing themselves into the Convention—He was not sensible of any feelings, on the occasion, leading him to propose or vote for any article that was not calculated to produce the security and happiness of the people, and he verily believed the future Legislatures, if the people were left unfettered to make a choice, would not be inferior in *either honesty and general knowledge of legislation* to the Convention themselves—let the Convention set as high an estimation on their moral and intellectual qualities as they thought just. He was against all exclusions, except judges of the supreme court, and his objection to their election was not founded on the common maxim so clearly laid down by Montesqui, *that the same man or body of men who make laws ought never to judge under them*—But because they had labour enough to employ every moment of time, whether they were setting on the bench, or acting at home a little while in vacation to improve their minds to enable them to understand better,

and decide quicker the causes that came before them. The attorney general, solicitor general, judges of the inferior court, district judges, attorneys of districts and many other officers, he thought, had been excluded more through the want of a correct understanding of the application of the foregoing maxim than on any salutary principle of legislation; he could wish to see candidates stand on their character and good behaviour for the suffrages of the people—And *he had rather vote out the whole clause of exclusion*, then vote quarter-masters into it—He asked what hurt could judges of probate, or judges of the district courts of the United States do in the Legislature? None at all—but these, and the others before named, all possessed, in a greater or less degree *the very knowledge and information*, usually most wanted in every Legislature—He wished to see the State of Maine exhibiting to the New World an example of liberality, that he was confident, most of those people who, within forty years have made their constitutions, will soon be willing to follow, and actually prefer to their present ones—He continued, that in looking over the constitutions it really seemed to him in most of them, the *best men for legislation were unnecessarily excluded*—He asked why *justices of the peace* were not excluded? There was as much ground to suspect *they* might be influenced in their legislative character by an undue expectation of gain when acting as judges, as any of the officers excluded. And if there was *any cause of suspicion* in either case, he thought it the strongest against the *common justices of peace*.

The amendment prevailed, and sect. 2d passed as amended.

Sections 3, 4 and 5, passed without discussion.

Sect. 6. Mr. Knight, of Falmouth, moved to add to the section—"No person who denies the Christian religion shall hold any office in the civil department of this State."

He said, we require an oath of our civil officers, and we ought to require a belief in the Christian religion. If we wish to have the edifice lasting, which we are erecting, it should be founded on the broad basis of christianity.

Mr. Holmes said, it was inconsistent with the Bill of Rights. He also hoped the constitution would be founded on the broad basis of christianity, and that no one would be elected into any office who did not believe in its benign precepts;—but it was altering the system, which was not to require a religious test as a qualification for office.

This motion was lost.

Sect. 6th then passed as amended, by inserting the words "but not exceeding five years."

Col. Atherton gave notice he should call up his motion relative to locating the seat of government to morrow at 3 o'clock.

Ordered, that so much of the Constitution as has been accepted by the Convention be committed to the revising committee, and that Mr Kingsbery, of Gardiner, and Judge Ames, of Bath, be added to that committee. Adjourned.

TUESDAY, OCTOBER 26.

Mr. Thrasher, of Cape-Elizabeth, moved that a committee be appointed to report to this Convention, such laws of Massachusetts as are repugnant to the Constitution of Maine ; which motion was read and ordered to lie on the table.

Judge Cony submitted the following resolution which was read and ordered to lie on the table. *Resolved*, That a committee of be appointed to procure a suitable public seal, and also a proper device for the arms of the State.

Judge Green, Chairman of the Committee appointed to take into consideration the apportionment of Senators and Representatives for the first Legislature, made a report, and statement of facts in relation thereto ; which was submitted :

The Committee find the whole number of inhabitants, according to the most correct estimate, which they have been able to make, to be as follows, viz.

	<i>No. of Inhabitants,</i>	<i>Sena- tors.</i>	<i>Frac- tions want- ing.</i>	<i>Ex- cess.</i>
In the County of York,	50,291	4	10,765	
Cumberland,	56,043	4	5,013	
Lincoln,	59,148	4	1,918	
Kennebeck,	54,992	3		9,200
Oxford,	33,336	2		2,808
Somerset,	30,790	2		262
Hancock,	34,276	2		8,748
Penobscot,	19,126	1		3,862
Washington,	13,076	1	2,188	

And the opinion of the Committee upon the foregoing facts, is, that should the number of Senators be increased to twenty four ; justice requires that four Senators should be apportioned

to Kennebeck, that county having a fraction much larger than any other according to the apportionment made by a former committee.

Gen. Chandler. When this subject was taken up before, I expressed myself satisfied with the report of the committee on the constitution. This was founded on the report of a sub-committee, which was appointed to apportion the senators upon the several counties. But upon the facts stated in this report, I move that another senator be allowed to the county of Kennebeck.

Dr. Rose hoped the motion would not prevail, as the senate was then large enough. He thought it better to strike out three and leave the number at twenty. This would leave a fraction in favor of York, and also fractions in favor of the small counties.

Mr. Dearborn said, by the constitution it is provided, that the senate shall consist of twenty three; and I should prefer to add one to the number, to taking one from the large counties. It appears by this report that Kennebeck has 54,000, and York has 50,000, and the former is surely as well entitled to four senators as the latter.

Col. Lewis said, considering that the manner of getting at the members in different counties was perfectly arbitrary and that the apportionment would continue only during the first Legislature, he hoped no alteration would be made. When the census is taken it will be proper to apportion the senate anew.

Judge Bridge observed that the object of the provision was only for the first Legislature, after which a new apportionment would take place, the principles of which he hoped would not be lost sight of. The estimate, said the Judge, is probably larger than will be found correct, but the proportion was probably right. On this basis would it be right to give four senators to York and but three to Kennebeck? and taking the number of delegates from each county, could there be any doubt, that Kennebeck would have less than its proportion? He would not take one senator from York, but he would have the number twenty four and one additional one for Kennebeck. He doubted not, however, but justice would be done.

Judge Cony said he should not have risen, if the proposition had been to take one away instead of adding one to the senate; but as it is to add one, he would remark, that he believed twen-

ty four was not too large a number and that the motion ought to prevail.

Col. Moody said he did not rise to object to the proposition, but he could not accede to the statement that there is so large a fraction in Kennebeck. He thought it too large by 3,500 ; but as it was only for the first Legislature, he could see no danger to assign one more senator to Kennebeck, and hoped the motion would prevail.

Judge Green made some remarks in justification of the statement made by the committee. We do not pretend to certainty, said the Judge, it was impossible to attain to it—it is rather conjecture. But from the best data in our possession, we believe it to be sufficiently correct, and it appears to be so near an equality, that we were satisfied the relative proportion was not far from right, although not perfectly accurate. Yet we had no hesitancy in saying, that if the Convention take twenty four for the number of the senate, that Kennebeck should have another. Indeed we could see no reason why York should have four and Kennebeck but three.

Mr. Holmes said if no other county asked for an increase, he should be disposed to give another to Kennebeck, as it was not easy to reduce the number. He thought, however, the calculation was incorrect—that there were not 300,000 inhabitants in the State, nor so many in the county of Somerset, from the number of delegates.

Gen. Chandler. The gentleman will perceive that I have not been very anxious as to Somerset or Kennebeck. But, sir, what reason is there, why York should have four senators and Kennebeck but three ? The gentleman from Alfred has asked how can Somerset have so many inhabitants and so few delegates ; but the number of delegates in this case does not depend at all on the number of inhabitants. Certainly I shall not be satisfied with York having four senators and Kennebeck but three.

Mr. Preble. If the calculations made by the committee in regard to the population of Maine and the several counties is correct, the apportionment of senators, as it now stands in the constitution, is monstrous. He hoped the Convention would do equal and exact justice to every section of the State—that they would allow to the population of each portion its equal representation according to their numbers in whatever part of our territory that population might happen to reside. He was

willing gentlemen should have their full number in the senate, and he hoped that gentlemen would be willing that, with respect to the other branch of the Legislature, justice should be done to other parts of the State. If sir, said he, the population of York county is 50,291, and that of Kennebeck 54,992, on what possible principle is York to have *four* senators and Kennebeck but *three*? But before they assigned an additional senator to Kennebeck they ought to be satisfied that she had the requisite population. In point of territory that county is comparatively small. At the time of the last census, 1810, the population was dense. Since that period it was well known there has been little or no emigration into Maine. The tide of population had set in an opposite direction. Maine instead of receiving accessions to her numbers from other States had actually lost thousands of her population by their emigration to the west. Nay, more, this loss of population, this emigration to the west, had been principally from Lincoln and this very county of Kennebeck. Apply these facts to the population as ascertained by the census in 1810. It then consisted of 32,564 inhabitants. The calculation of the committee now give it 54,992, making an increase in nine years of 22,428, or more than 75 per cent. in 10 years. Now did any man in this Convention believe that Kennebeck had increased in that proportion for the last nine years? Did a single gentleman from Kennebeck believe it? It had been sometimes jocosely said that gentlemen in some parts of Maine were good at calculation; but they must certainly yield the palm to the gentleman from Kennebeck, (Judge Bridge) whose calculation this was; for never did Mr. P. see any thing professing to be a calculation, which could come in competition with it. A sub committee from the county had estimated the population as he understood at about 45,000, and on that estimate the apportionment in the constitution had been made. With that estimate he was satisfied though he believed it to be full as large as the actual census of 1820 would be found to justify. Even this he thought was giving full credit to the internal resources and prolific powers of that very respectable section of the State.

There was one other consideration to which he would call the attention of the Convention tending to show as he believed the erroneous nature of the reported estimate of the committee. A new town where the population is very small may by a very small emigration double its population. The same may be true

of a county or a State where the territory is extended and the population small. Such he had no doubt had been the case in the new counties of Somerset and Penobscot. But it was far otherwise in towns and counties where the population was already large and respectable in point of number, as he contended was the case in Kennebeck. Her population though spread over her whole territory was comparatively dense. She lost many of her inhabitants by emigration and the late war. Her increase had been for the last nine years the natural increase of her people. Yet this Convention was called upon to believe that in those nine years she had increased from 32,564 to 54,992. For his part he must require, in order to believe it, some other evidence than fanciful statements on paper.

In submitting the remarks, he had not done so with a wish to induce the Convention to refuse another senator to Kennebeck, if she was justly entitled to an additional one. He would be among the last to do her wrong. If gentlemen would satisfy him that she had the requisite population he would most cheerfully vote for the proposed amendment.

Mr. Dearborn made some remarks to shew that the estimate was correct as respects Kennebeck.

Mr. Holmes. I did not believe we should get along without the "Brunswick Arithmetic." I think the people of Kennebeck are very good at calculation, but I think no other gentleman could make such calculations as we have just heard, and I now rise to give due credit to the gentleman who represents a part of the county of Cumberland.

Mr. Thacher, of Saco, said he thought, that unless the calculation could be shewn to be incorrect, the Convention ought to accept the report and give one more senator to Kennebeck.

Judge Thacher thought there could not be 54,000 inhabitants in Kennebeck. York had not so many votes because they did not turn out, as they did in other counties, where they were actuated by stronger motives. As in Portland and vicinity, many voted for separation who would have voted against it, but from the expectation of its becoming the metropolis. There have been many emigrations from the territory and he did not think there was 50,000 in Kennebeck, and did not know there were so many in York.

Mr. Dane, of Wells, made some remarks on the mode in which the committee obtained the estimate. We were satisfied, said Mr. D. that we had not 50,000 inhabitants; probably

307,000 was as correct as any that can be made. He did not rise to oppose Kennebeck having another senator, but he would observe that we cannot have so many Senators when a new census is taken.

Mr. Jarvis, of Surry, said the Eastern members have not taken up the time of the Convention—they take what you give them; but they will not be contented, if you give another senator to Kennebeck. As it is, they have 54,000 inhabitants and three senators. Penobscot and Hancock contain 53,000, and have three senators. Hancock, Penobscot and Washington have 66,000, and have four. They have half of the territory of the State, and will have no more senators than Kennebeck. Will this be justice? No one can say it. If, as a favor you give one to Kennebeck, I demand one for the eastern section as an act of justice.

Judge Bridge said, he should not rise again if the basis was understood. They did suppose the population of Maine amounted to the statement on paper. It was obtained by taking the supposed increase, from 1810 to 1820. This will not hold good, and no matter whether it does or not, provided the same proportion is given to each county. He thought the population less than 300,000. He had made the valuation which he thought correct, for Kennebeck, by taking the increase for two periods, and making allowance for their falling short. He thought the migration was not much. The increase of Kennebeck is not larger than has taken place. Somerset would more than double in 1820. Kennebeck had more than doubled in two years. And, said the Judge, there cannot be a doubt but that county has 50,000 inhabitants, and is entitled to four senators.

The vote to add one Senator was carried, 125 to 106.

Mr. Dearborn moved that the additional Senator be given to Kennebeck.

It was then *Resolved*, That an additional Senator be added, so as that the whole number of Senators which may be elected, be increased to twenty-four; that this additional Senator be placed to the county of Kennebeck, and that the report be so far amended, as that the county of Kennebeck may be entitled to send four Senators to the first Legislature. Which resolve was read and passed.

Mr. Johnson, of Belfast, moved that an additional Senator be added to the county of Hancock.

Mr. Abbot, of Castine, took another view of the subject. He said, if you divide Maine into three districts, it will appear that 12,000 inhabitants give one Senator to York ; 14,000 to other counties, and to us there is one only for 16,000 ; as if Penobscot and Hancock are added together, they have 53,000 ; whereas York has but 50,000. It is of some importance, not only that the counties should be equally represented, but that the different sections of the State should have their due weight. Take Hancock, Penobscot and Washington together, and they would be as fairly entitled to five Senators, as the other counties to their proportion. As to the numbers taken by the Committee as the basis of their estimate, it will appear that the lower counties have not their proper weight, and that Penobscot should have the additional Senator.

Mr. Moody, of Hallowell, wished to hear the opinion of the Committee, whether Penobscot had increased beyond their estimate.

Mr. Holmes said, he was of the same opinion he had been before. If we begin to raise the number, it will only open the way for a further increase ; and he thought it better to diminish. Mr. Johnson then withdrew his motion ; and Mr. Holmes moved to reconsider the former votes assigning the number of Senators to be elected to the first Legislature, and to adopt the apportionment as in the Constitution, making the whole number of Senators for the first Legislature, twenty.

Dr. Rose hoped the motion would prevail, for that by this amendment, every old county would have a fraction against it, and the new counties in their favor.

This amendment passed unanimously.

Mr. Dearborn then moved to amend Article 4, part 2d, sections 1st and 2d, by striking out the word " three," to conform to that amendment.

Mr. Preble suggested whether *three* had not better be retained in the second section, or if stricken out, that *five* should be inserted in its room. If the number was fixed at twenty, it would be impossible to apportion the Senators upon the counties according to their population. Some discretion or latitude ought to be allowed to the Legislature. There would be fractions, and large fractions, unless the Legislature should disregard county lines. But if some little latitude as to the number of Senators were allowed, the Legislature would adopt that number within the prescribed limits, which would admit of the most ex-

act apportionment upon the counties. To that course he could see no objection. He was only giving to the *first Legislature*, the same power given by the Constitution to subsequent legislatures.

ARTICLE XI.—*SCHEDULE.*

Section 1st. Mr. Dane, of Wells, moved to amend by inserting after the word "next," in the second line, these words—"the choice of Counsellors, Secretary and Treasurer, on the first Wednesday of January annually, shall not be made until the year of our Lord eighteen hundred and twenty two;" and further to amend said section in the fourth line, by inserting after the word "time," these words—"the choice of Counsellors, Secretary and Treasurer shall be made on the last Wednesday of May next," which motions passed in the affirmative.

Mr. Holmes made some remarks as to the reasons which influenced the committee in fixing on the time of the first meeting, and continuance of the first Legislature. If the meeting for the choice of Governor, &c. was in April, there would not be time for return of votes, &c. if the first meeting was earlier than the last Wednesday in May. And as the Legislature of Massachusetts will then be in session, and there will be commissioners to be appointed, and other things to be transacted between the two bodies, it would be best for our's to meet at the same time. As to the continuance of the first Legislature, it will be proper to extend it, otherwise it would expire in January, 1821; and as there will be much business for them to do, in organizing the new government, &c. which would not be a very thankful task, and as it is not probable the members will be re-elected, it was thought best to give them a longer time than usual.

Judges Thacher and Dana made some remarks in favor and against an earlier time.

On motion of Mr. Dearborn, the Convention resolved themselves into a committee of the whole, upon the subject of representation in the House of Representatives—Hon. Judge Thacher in the chair.

A conversation arose on the mode of proceeding; after which Mr. Dearborn said he believed the committee were desirous of a substitute being offered, and proposed that any might be offered, in order that they might all be considered together.

Among those which were offered was the following, by Gen. Wingate, to commence after the 5th line, 2d section, art. 4th, p. 1st:—

"And the Legislature shall further apportion the Representatives, so assigned to the respective counties, among their respective towns, as near as may be, in the following manner, to wit, to the additional number of inhabitants equal to the number required, in each county, to entitle a town to one Representative, fifty per cent. shall be added, to entitle said town to a second Representative, and for every additional number of inhabitants equal to the number required to entitle a town to elect a second Representative, an additional Representative may be elected in such town: *Provided, however,* that no town shall ever be entitled to more than seven Representatives—And towns and plantations not entitled to one Representative shall be classed, as conveniently as may be, into districts containing a sufficient number to entitle said district to elect not more than one Representative, and so as not to divide towns and plantations—and when on this apportionment, the House of Representatives shall contain two hundred members, a different apportionment shall take place upon the above principle."

Judge Parris said, that although this proposition was not exactly what he should wish, he still thought it preferable to one reported, which was very unequal; beginning at 1500 inhabitants for the first Representative and requiring 4000 for the second; and under all circumstances hoped the committee would report in its favor.

Mr. Dearborn stated that he was opposed to almost every part of the report of the committee on the subject of representation, and to the schedule annexed for the classification of towns.

Perhaps (said Mr. D.) as the subject now under consideration has been again brought before the Convention on my motion, it may be required of me to give my reasons for opposing the report of the committee: He would briefly state, that he objected first, to the inequality of representation, which must inevitably grow out of the system; second, to the impracticability of carrying it into effect, upon the principle assumed; and lastly, the fear he entertained that this clause would defeat the adoption of the constitution. Mr. D. then stated that he would prove, incontrovertibly, by making an example of a single county, that the committee themselves were unable to carry their project into effect without a dereliction from the principles by them established; and as the county of York had been cited by the committee as a specimen of accommodation, he would confine his remarks to that county alone. Sir, said Mr. D. the

committee found it necessary to apportion twenty-four members to the county of York, but, Sir, they could not provide for choosing that number without breaking down the very principle by them established, of which I now complain, and which is rigorously enforced upon every other county. They, Sir, provided that the town of York should send two Representatives, but the town of York is entitled to but one—falling short of the number of inhabitants required by the bill to the amount of nearly a thousand;—and that the towns of Newfield, Cornish, Limerick and Alfred, should each elect one, when, Sir, neither of those towns are entitled to a Representative, and the whole four together are entitled to but two. Thus, Sir, have they overleaped the bounds of their own bill for the purpose of accommodating York with three Representatives that do not belong to them, and which they are not entitled to elect.

Mr. D. then proceeded to give his reasons at large for opposing the 2d and 3d sections of the 4th article, and closed by stating that the first Legislature would have a multiplicity of business before them, and that it was not probable that any Legislature would follow it whose proceedings would be so important and interesting to the people as that of the first choice. He was therefore exceedingly anxious that a fair and equal representation of the people should be had in the first House of Representatives.

Mr. Shepley, of Saco, approved of the proposed amendment. When the first Legislature meets, said he, they will apportion the Representatives according to the relative population, in such a manner as to do more equal justice than can be done by the section as it now stands. I think we have given too much influence to our feelings, in considering this subject. For myself, I have heard so much about inconveniencies, as to be carried away from the guidance of sober reason. We have in consequence abandoned principles. That the majority shall rule is a fundamental principle of republican governments. From this we have departed, in the system we have adopted. Let us then go back and return to the principles of justice. That a minority shall rule, is directly repugnant to the most sacred principles of equality and right. In justification of our system of representation, examples have been brought of similar modes in other States. But in these States the two Houses balance each other. But our Senate is not so, it is founded upon equal and exact principles. We have reported from the principle of

giving to an equal number of people an equal right of representation. And therefore, considering it a return to correct principles—I hope the proposition will prevail

The Honorable President then resumed the chair, and the Honorable Chairman reported—That the Committee had according to order, had the subject committed to them under consideration, had made some progress, and asked leave to sit again; which Report was stated from the chair, and thereupon

Resolved, That the committee of the whole Convention, have leave to sit again. And the Convention Adjourned.

AFTERNOON.—The Convention again, on motion of Mr. Dearborn, resolved themselves into a committee of the whole, to resume the unfinished business of the committee, by 103 to 97.

Mr. Herrick, of B. said such floods of light had been shed on this subject, that he was dazzled by the effulgence. He therefore thought it best to begin anew, and suggested to the committee, that every member lay his scheme on the table for the examination of all, and that after a day or two they should decide on them severally.

Gen. Chandler. Mr. Chairman—I confess the observations of the gentleman have some weight. I only differ from him in this respect, instead of light, so much darkness has been cast on this subject, that I find I do not see clearly. I confess I cannot hear such a proposition read once, and immediately understand all its bearings. After we had adopted the report of the committee, I supposed a great majority of the Convention were satisfied. I had proposed a system a little different; one which I thought they would have been likely to adopt. I am not sure but it would have been better received. I supposed that those towns which would have one Representative would be satisfied, even if they had a large fraction over, as it would compare so well with the system we have so long been accustomed to. It is not unnatural for man to wish for power, nor is it uncommon for towns to wish for power. The large towns fear they will not have power to prevent the small towns from combining against them, to their disadvantage. But can small towns combine against the large ones to effect any great object? No, but the danger is the other way.

We endeavoured to make the system reported as equal as possible. Gentlemen say it is unequal—one town sends a member and another does not. Was not this the case under the old

Constitution, with which gentlemen have been satisfied? Gentlemen in large towns are dissatisfied, and call on you to change the system, but how would they change it? They lay on your table a proposition which it is said will assimilate it to the Constitution of Massachusetts; but is there any similarity? I do not perceive any; and it is so complex, it is difficult to say whether it is better or worse. If they will say let a town, having 1500 inhabitants, elect one Representative—a town having 3000, elect two, and a town having 6000, elect three Representatives. This would in some measure assimilate it to the Constitution of Massachusetts. But it would lessen the representation, and if there are 300,000 inhabitants, I doubt whether this would give over one hundred and fifty Representatives, owing to the great fractions which would be lost—in this way we should know what we are doing.

Although I am sure that the gentleman who offered this proposition would not have offered it, if he did not believe it for the best good of the whole; yet I would call on gentlemen to judge well what they are about to do, before they adopt this complex proposition. The one reported they have had several days in their hands, of that they can better judge.

Gen. Wingate said, it was impossible to fix on any number which shall begin, as it is apportioned on the counties. No number can be named, as it will be different in different counties. And why should it be necessary? it is not deceptive, but may be easily understood and apportioned on the several towns, when the apportionment on the counties is made.

Judge Bridge. I rise, sir, to state what is my impression of the effect of the proposition. Suppose the number should be fixed at 1500 for the first Representative; for the second 2250 more will be required, if I understand it. I am told the whole effect will be, to take one small town and put it to a large one. But at no distant time the effect will be very different. When the population is so large that a town can send six or seven, let us see what will be the effect. To send seven, 15,000 only will be required; but by the report, 31,500. When we arrive at that period, the effect will be to give a Representative by towns, to one or two only. This effect I am unwilling to submit to, and prefer adhering to the report of the committee.

Mr. Whitman said he was unwilling to be troublesome to the Convention by offering his ideas for consideration. But the subject (said he) has taken a new turn. It would seem we are

about to drop the consideration of the report, and look for an entire new scheme. The more we examine the article as reported, the more objections shall we find to it. It speaks of an increasing ratio—Who ever heard of an increasing or decreasing ratio? A ratio is a rule of proportion—a regular progression. An increasing rule of proportion or an increasing regular progression would be perfect jargon. We here may know what we mean—because it has been fully explained by those who framed the article. But can we be sure that our meaning will be understood elsewhere? Will posterity, from the phraseology used be able to comprehend it? All, but we who are here assembled, in order to understand our meaning will have resource to the meaning of the language used. We say that a town having 1500 inhabitants shall have one Representative—that a town having 4000 inhabitants shall have two—and one having 7500 inhabitants shall have three—and so on in this *increasing ratio*, for every additional Representative. Now, Sir, let me ask, in what way will every person out of this body go to work to ascertain what number shall give the fourth, fifth, &c. They will see that a ratio is spoken of, and that, true it is, it is called an “increasing” ratio—but the word “increasing,” making it nonsense, will be rejected. A ratio then is to be sought for. The numbers given bear no proportion to each other. This then cannot be the ratio spoken of. To find what number is to give the fourth Representative, recourse must be had to the rule of three, properly called the rule of proportion. They will say, as 1500 is to 4000, so is 7500 to the number which will give the fourth Representative; the product of which will be 20,000. This, then, is to be the number which will entitle any town to the fourth representative. According to the explanation, however, given by gentlemen here, it seems that 12,000 is to give the fourth. But this would never be discovered from the language used. There are many other parts of this article that are equally unintelligible*.

By this article as reported, it seems that the representatives are to be apportioned once in five or ten years, according to population, in the first instance, among the several counties; and next, among the several towns in each county, according to a certain rule. Each town having a certain number of inhabit-

* The phraseology of this article was essentially altered by the revising committee, after the making of the foregoing remarks.

ants, say 1500, is to have one, and no more until its population amounts to 4000 ; and no large town is ever to have more than seven. Now, sir, let us suppose a case, which will happen in less than thirty years. The town of Portland, within that time, will have as many inhabitants as Boston now has. The county in which it is situated, cannot then remain, comprising the same extent of country it now does. The town, of itself, will, as Boston now does, furnish business enough to keep the courts almost continually in session. It must then be as Boston now is, a county by itself ; or with but very few towns united with it. Yet your representation must, in the first instance, be apportioned upon counties, according to population. The county in which Portland may be situated, will out of your 200 Representatives, be entitled to at least twenty. Then, when you come to apportion them among the towns, Portland must have not exceeding seven. The two or three small towns, (if any) which may be united with it, though their population in the aggregate might not exceed two or three thousand, would have a right to elect the other thirteen. The same will be the case with Bath, Hallowell, and some towns on the Penobscot ; and, in time, many others.

But suppose Portland should be necessarily a county by itself ; then, according to population, as a county, it might be entitled to twenty Representatives ; and yet, being but a single town, it could send but seven. And suppose two towns, of a population of ten or fifteen hundred each, were united with it, in the same county, these two towns would be entitled to send the remaining thirteen Representatives.

I should hope, sir, that we were making a Constitution to last, at least, for one generation. Indeed, sir, we ought to look further ahead ; and calculate that we are making a Constitution to last for many generations. It is not enough for us to consult merely our present convenience. A temporary policy is not the policy for Constitution makers. No man can tell what will be the fate of his posterity, or where they will be found. They will be as likely to be found in large towns as in small ones ; in sea-ports as in the country. Let me caution gentlemen against an unreasonable jealousy of the large towns. It may serve a present purpose ; but no mortal can predict how soon he or his children may become the victims of such jealousy. The citizens of the large towns are men, and have their rights equally with those of small towns. To deprive them of the enjoyment

of which is tyranny. In proportion as they are deprived of an equal representation, they are slaves. Why is it that you will require twice, nay, five times the number in one instance, to elect a Representative, that you would in another? It is, you say, because they are within the limits of one town. Is this a sufficient reason for disfranchising any portion of our fellow citizens? You might as well form an artificial district of a large extent; and say to it, because thus large, you shall be deprived of your equal rights. Large towns are but districts, happening, by accident, to be large; and, certainly, it cannot, rationally, make any difference as to the rights of individuals, whether they are placed in large districts by design or by accident.

All our embarrassments on this subject, originate in a departure from the only proper course. Had we adopted a system of districting in the first instance no man would have thought that there could have been any reason for putting more into one district than into another. Our work would then have been simple. Equal rights would have been regarded. But having now determined on a different course, we ought, at least, to try to render its operation equal and fair. If every town, having 1500, is to be entitled to one Representative, and cannot have a second, but upon an additional number, it will be manifest, that a large proportion of towns, having the requisite number, will have large fractions over that number, and yet short of the number requisite for the second. Hence there will be in such towns a loss of what is properly termed fractions. To render the representation equal therefore, when a second Representative is to be added, it is admitted a greater additional number than that which gave the first should be requisite. The average amount of such fractions should be taken, and added to the number which gave the first; and this should entitle a town to the second. It was upon this principle that the representation in Massachusetts was formed. One hundred and fifty polls were to give the first Representative. It was considered that the average of the fractions lost in towns which had the requisite number to entitle them to one, and not enough to entitle them to a second, would be equal to fifty per cent. They therefore determined that, for every additional 150 polls, with 50 per centum added thereto, an additional Representative should be given. Hence it is that 225 additional polls, for every additional Representative, is required. It would, therefore, be correct to require, in our apportionment, that for a second, and every ad-

ditional Representative, an additional number, equal to that which gave the first Representative, with fifty per centum added thereto, should be requisite.

The proposition of the gentleman from Bath (Gen. Wingate) is predicated upon this principle in part. It will therefore be preferable to the article as reported. It contains however the provision, that no town shall ever have more than seven Representatives, which ought to be expunged. As it is, however, I must vote for it, as being a choice of evils.

I beg gentlemen to consider that we, the people, shall, after we have formed this constitution, still have an election to adopt it or not; and that, if we should not adopt it, we shall have a constitution, which was made at a time, when the people of this country were alive to a sense of justice, and of equal rights—a constitution which was made by our best and wisest patriots—by an Adams, a Hancock, and a Bowdoin. In that instrument a sacred regard was had to our equality of representation to the utmost practicable degree. If we intend the people shall give the preference to the constitution we may prepare, we must take care that it shall be worthy of their preference; without which it will be labor lost. We have already determined to apportion the Senate according to population, and not according to valuation. By this the counties of York and Cumberland will lose two, out of twenty-three Senators; which will be gained by other parts of the State; thereby making a difference of four, in twenty three, against those counties. Apportioning the Senate according to valuation, as would be the case should we have the constitution of Massachusetts, would give the counties of York, Cumberland and Oxford, a majority in that body. Making the apportionment according to population, and it will be otherwise. Here are powerful motives furnished to induce these counties to vote against this constitution. Again—the towns which are to be classed in order to be entitled to representation, and which would under the constitution of Massachusetts be entitled to a Representative, without being classed, would, perhaps, prefer the latter. And again—the large towns, which are to be deprived of an equal representation, will be strongly impelled to give their votes so as to secure the enjoyment of their equal rights—And I may be permitted to notice, as being likely to be added to the number of those who would oppose your constitution, all those who have been opposed to all our attempts at separation. We must not flatter ourselves

that they will be much in love with the work of our hands. It behoves us, then, to make a constitution unexceptionable in most, if not all, of these particulars.—We must take care not to array a majority of the people against it. We must in this, as in every thing else, expect them to be guided by a view solely to their interests.

I have, said Mr. W. an anxiety to make a constitution that shall confound gainsayers. Every thing evil has been predicted by the opponents of separation. They have alleged again and again, that a good constitution was not to be expected at our hands. I would it were possible we might teach them that they are false prophets. I have, Sir, a pride to be gratified, as I have ever been in favor of the independence of Maine, and have ever insisted on our ability for self government. I should regret extremely to be unable to vote for the constitution which we may form.

Mr. Holmes took an extensive view of the subject, of which the following is an imperfect sketch. He said he had observed the course of the investigation which this subject had taken, and had not seen that unanimity, and disposition to accommodate and yield opinions, which seemed necessary in order to agree upon a plan which should be acceptable. He had looked for argument instead of splendid declamation and impassioned eloquence. We ought not, said Mr. H. to be afraid of the many combinations which it is said will be raised to break down this constitution. I will lay open this proposition and that of the committee, and see if the small towns are disposed to combine to deprive the large towns of their rights. I understand the proposition to be this—that the first House of Representatives shall not exceed one hundred and fifty, divided according to population. Mr. H. then stated his views of its operation, and that by it, the large towns would obtain a larger representation, and the small ones less than by the report. If by the latter, the sacrifice of the large towns was extravagant, he proposed a partial remedy. He then stated the proposition, which was afterwards adopted instead of the report, which required 4000 inhabitants to entitle a town to two Representatives, and 7500 for three. He then went on to show the errors in the arguments on the other side, and to defend the report. The committee, said he, had in view the prevention of fraud—the conciliation of local feelings and general interests. It was difficult to make people give up their corporate rights, from which they

derive many benefits. You must, then, make a constitution not only for their interests, but their prejudices—You must preserve their corporate rights. The same principle in Massachusetts had produced evils, to prevent which we must begin with a larger number for the first Representative. It is said small towns will combine against the large towns. They will not, said Mr. H. unless they are oppressed. If we look through Maine we shall see that the towns are a specimen of the men a mixture of small and great. Why is it necessary to take such care of the rich man? of rich and large towns? He ridiculed the idea of small towns combining. The farmers do not combine. Agriculture is the favorite employment of heaven. Sir, when the Almighty had created the world, he did not say we have made an orator, or a merchant, or a lawyer; but we have made a man to till the earth. Sir, this employment always was the school of virtue—is there any danger that *they* will combine? No, Sir, the judiciary, the executive officers, the merchants—do not these men have their influence, and the power to explain their rights? The people in the country are struck with the blaze of their eloquence. But if there is danger, to what does it amount? You will see the large towns have an advantage over the middling ones. Thus, Berwick, Shapleigh and Lebanon have three Representatives, and so has Portland—and so it is in Boston. While Boston sends forty-five, towns in the country with as many inhabitants can send but thirty. It is only to compensate for fractions that the increase is required. But suppose a combination of small towns against large towns. The same was said of large States, but have you suffered any cabals or combinations? No. But suppose they do, there is a check in the Senate. Suppose the large towns cannot put it down, you have the voice of the people fully expressed in the Senate; you will have the men of property and learning in the Senate. Is there danger that they will be put down by this caballing? but if not, the corporations will check them. It is in this respect like the constitution of the United States. But in addition to this you will have a Governor chosen by all the people; and suppose the Legislature to be corrupt, the Governor checks them and preserves the rights of the people.

Mr. Holmes said, as the usual hour of adjournment had arrived, he would give the committee an opportunity to rise before he finished his speech.

The committee then rose, reported progress, and had leave to sit again, and the Convention Adjourned.

EVENING.—The Convention again resolved themselves into a committee of the whole, upon the subject of representation in the House of Representatives.

Mr. Holmes now resumed. He said he was not disposed much longer to occupy the attention of the committee. He did not intend to excite their passions and feelings, and hoped they would not be deluded by the eloquence of gentlemen. Sir, said Mr. H. there can be no doubt as to the effect of the amendment. It is certain that it introduces a new principle. It is certain mine does not introduce a new principle—it is only a modification of that report. The one is an increase for the second Representative and not for others, the other is to increase progressively.

The gentleman from Portland gave us in glowing colors the situation of his town; but forgot to state that it would have forty Representatives by this mode—for it is unjust to limit the number if you have the same increase after the second. If this is the case there will be complaints on the other side. Mr. Jefferson compared great towns to great sores: although they have great talents, they have also great evils. But, Sir, it is from a source of impurity which makes the talents more resplendent.

Mr. Holmes again argued against the supposed danger of a combination amongst small and poor towns—that the Senate was founded upon population, and would be a barrier against popular phrensy and delusion. The more you look at it, said he, the more you will admire it. In one branch you preserve the corporate rights, in the other the county is represented. In the Senate, so venerable, will be found a sure guard for the wealthy. Mr. H. then appealed to other States. Mr. Jefferson objected to the Federal Constitution because the two branches did not represent different interests. In Massachusetts, one branch represents the wealth; but there is no contrariety of interests. But here you have different interests—one that of corporate rights, the other popular interests; and the Governor will be a check on both. Here you have a well balanced government. Look at Connecticut—there each town was entitled to one, and none more than two Representatives. Was there any complaint, if so, why did they not alter it? Because it was an evil but in name. Vermont is a child of Connecticut. We

need not go out of New-England to see that it has produced no evil. Every one has regard to local rights. Even in the United States constitution there is a provision that no State but shall have one. Go to Georgia whose constitution has been admired as a model; and in Pennsylvania there is one at least in each county. In North and South Carolina both have the same principle of local though unequal interests. And you will agree with me that we are to have some regard to local representation, and of course some inequality.

But I believe we have other checks against the danger. We have provided that the people should be entrusted with our Literary Institutions. We intend to take the literature of the State under our liberal protection, and such light will be diffused among the people that with all these grounds will there be any oppression in your government? But we have another check to the evil—we have the benign influence of our holy religion, which will always check combining to oppress. With these checks, need we fear that the people will unite for a division of property? No, Sir, wealth has its influence, and will have. Another check against the injury of great towns is, the small towns never have their due weight. They never combine—their local situation forbids it. Merchants call upon the Legislature for a Bank—in the country we do nothing. The merchants complained of commercial restrictions—we complained of nothing.

Sir, I do not think there is any danger. I hope that the proposition before us will not obtain—but I hope the one I hinted at will. I would preserve the progressive increase, instead of a mean increase. This is only to balance the fractions in the counties. It is not right that second or third rate towns should lose fractions, and a large town lose none, as Boston in Massachusetts. If this is not dangerous, I do not know what is. Sir, I have seen the great speculators carrying measures through the Legislature which a plain farmer would not dare to think of. There is danger of the rich men. Look at your county, capable of a large population made to pour in their wealth into the large towns. The real danger is to the agricultural interests.

Mr. Vance said, we have had so many propositions to the Convention, that some gentlemen seem to be bewildered by them. But, said Mr. V. neither the light nor the Egyptian darkness which has been thrown upon this subject, has blinded me. I left the waters of St. Croix with my own impression,

and that of my neighbors, that there was but one principle to govern us—that of justice and equal rights. I have fought and bled for this principle, and I hope it will never be relinquished by any portion of the American people. I have heard nothing that has moved me from the ground I first took. If we are to have equal rights as the basis of our constitution, will any member rise and say that any one is to have his equal rights taken from him? That equal justice would be done to all classes in the representation, was the general expectation, and that the number would be limited. This is the principle we ought to adhere to, and to fix the number from 75 to 100. Sir, is it difficult to do this? I undertake to say it can be done. Let us divide our State according to numbers, and class the towns. Is there one who can say this is not just? If there is, there is one who would take his equal rights from his neighbor. Let us not be frightened at the manner of classes or districts. But we are told the large towns are rich and have disproportionate shares of influence. If we class the towns, however, where is the man who will not be represented—one who cannot say he has an equal share in the government? I have not heard complaints from large towns so much as from the middling ones. I do not fear that the large towns will make laws to injure me, for the same laws must govern them.

The gentleman from Portland, says the Constitution of Massachusetts is just: but it did not do equal justice. Every town in the old part of the State has a Representative, but in the new towns, it takes 150 polls to entitle them to one, and there are many such towns. And is this the Constitution we are to go back to? Was this giving equal rights? No, Sir. And as this did not give equal rights, I am opposed to it, and wish to have one that will secure them. This can be done only by districting. Has any one of the numerous plans given an equal representation? Is there any one disposed to take the right from Portland and give it to negroes? Now the gentleman from Alfred will bring forward a new proposition. But will this remedy the evil? He says that Portland which has three Representatives, will be equally represented, because that there are three towns in York with an equal population which have only three. But will it help the gentleman, if he has lost an arm, to know that his neighbor has also lost one? Let us take the Constitution which says all are equal, and see this corresponds to it.

If we have one hundred Representatives and every one have an equal voice, would any one oppose their being paid out of the public chest? No, Sir, for they would then legislate for the whole. It might be said the large towns would pay nine tenths of the tax. But would this be hard? The gentleman says the rich go to the large towns. This is too true, and he might have said our produce, &c. go to the towns. Would it not be right for a small part to go back, as some compensation for their disadvantages?

I do not expect my views will be adopted, but these are my impressions, that no one scheme so unjust has been proposed. And unless we have one better, I will of two evils take the least, and prefer to take the report.

Mr. Baldwin, of Mercer, said, the subject of representation was attended with many difficulties which seemed insurmountable. We have been, said Mr. B. revising, amending, supplying, correcting, altering and rejecting; and still the difficulty remains. The constitution of the State is, in many respects, like the constitution of the human body, and if there is oppression and inequality in the former it will produce disquietude and uneasiness, to remedy which more powerful remedies must be applied than cordials and opiates. We have been carefully guarding against districting, and yet like the old serpent, it has insinuated itself in the specious form of county lines and restrictive numbers, and we dare not make an efficient struggle to rid ourselves of it. I would by no means however tear down all. I would take the report of committee, disincumbered of county lines and restrictive numbers. Let the Convention agree upon a corporate representation, and I am willing to take any number from one to two thousand for the first and proceed according to the progression in the report; we then should have a constitution the best in the Union, and one that would inspire confidence and insure tranquillity. Mr. Baldwin went considerable length in exhibiting his views, and concluded by saying, if I had a voice like a trumpet, that would sound to the remotest corner of Maine, it should be heard in every fisherman's hut on the sea shore and islands, and every squatter's log-house in the beach wood settlements, from Passamaquoddy to the White Hills, or at least to their Representatives.

Awake ye sleepers! arouse from your stupor! assert your interest! put on the man! and ensure to yourselves, your constituents and their posterity, peace and tranquillity.

Mr. Wilson, of Bingham, said, he thought there was no danger of small towns rising up and crushing the large towns, as most of their inhabitants come from the large and old towns. He hoped the report of the committee would be accepted, unless a better plan should be offered. He then proposed that there should be five Representatives for one Senator, to be paid out of the Treasury and distributed among the towns as conveniently as may be.

Mr. Preble. Mr. President—I will state facts. If we become satisfied with any proposition and unite on this subject, it would save, instead of wasting time, to consider it. I find, Sir, that the overgrown and undue influence of Boston, has great weight on some minds, and they wish to make a provision that will prevent such an influence. This is done already. By proportioning your Senate according to your population, you prevent the evil. Boston has the proportion of fourteen to a hundred in the Senate. It is in consequence of representation, that they have this influence. If it were apportioned on population, Boston would have but two members in the Senate. This is the way to keep down this influence—not by violating the fundamental principles of free government. By the provision in this section Portland can never be entitled to more than seven Representatives in 200.—Although Portland may increase, the State will increase in a ten fold ratio. There is no danger, therefore, from large towns. Let us look at the principle of the report and see if it is founded on equality, or injustice. I am for going as far in representing corporations, as we can. But take off the limitation and you give too great an influence to large towns. By this provision Portland has three Representatives ; but on principles of equality it would have eight. Is it strange that they should be uneasy at this inequality ? If Alfred has one, Portland should have eight—where is the justice and equality of this ? As to the pretence, that men of talents come from great towns only—we are not to be blinded by such arguments. A large town may be feebly represented ; it depends on the people of the town.

In the county of York, the number to entitle a town to a Representative is much smaller than in Eastern Counties. This arises from this abominable principle of inequality. Take the proposition of the gentleman from Bath. This will assign 25 to Cumberland, then the inhabitants divided by 25, and if it give 2000, every town with this number may elect one, and every one with 3000 may elect two.

You have a simple way of getting the ratio—it is more plain and simple—more sound than the report. There is no principle in it to say, there shall be one for 1500 inhabitants, and then to take an increasing ratio.

Adopt this and it will not increase but thirty. You will heal all the evils, do away the injustice, and have the support of many men, who will otherwise be in opposition. Your Senate is predicated on population,—if it were on property, Portland would have one. The Senate is predicated on equality. I entreat the Convention to yield a little to the prejudices if you will. Adopt the proposition of the gentleman from Bath, and you will remove the difficulties. There can be no danger from large towns—they will not increase in proportion to the country. I am told by the gentleman from Hallowell, that in five or ten years that town will have 7000 inhabitants, and there will be other large towns, and if we remove the limitation we shall have general satisfaction.

The President rose and said, Mr. Chairman—I did not expect the question now before the committee would have been agitated on this floor. I did expect that we were met to establish principles. If we had confined ourselves to this, we should probably have been as unanimous, as we were in adopting the bill of rights. But where subjects of legislation come before us, local interests and feelings arise and interrupt that harmony and unanimity which it is so important to preserve. In ordinary legislation, if mischief is done, it may be corrected; but a constitution is not so susceptible of alteration or repeal. Now, sir, if we had proceeded to say that the representation should be fixed at 1000 inhabitants for the first, and two or three thousand for the second, and left it to the legislature to fix the exact number, then they would have altered it as circumstances required. If they had decided that this would give too large a number, it might have been corrected. I did think, sir, it would have been better left to those who come after us, at least to establish the details.

Sir, the gentlemen who compose the committee are men of the first talents, and they have made a report which would be honorable to the State. But I believe the proposition of my colleague is an improvement, and that there is an inequality in the system reported. In Boston, by the constitution of Massachusetts, there is an inequality; a town with such a number of Representatives possesses more than its just weight. But though

there is an inequality in one house, there is an inequality in the other, which balances it. And in our Constitution, there is a perfect equality in the senate, every man has an equal right in acting. But in the house, there is an inequality, with which I think the towns will not be satisfied.

I wish, sir, to have the constitution as perfect as we can make it; that there should be no reasonable cause of complaint. And I think the large towns have a reasonable cause to complain. But the proposition of the gentleman from Bath is more equal, and is founded upon a basis on which we have long practised, and I think will be more satisfactory. The President then explained his views of this proposition, and his reasons for wishing it might be adopted. He said he was sorry to hear the observations of gentlemen, which he thought went to organize a party in that part of the country. He thought there was no disposition in the small towns to combine against the large ones, and concluded by saying, if we are disposed to give up legislating, and adopt the proposition, the legislature will be formed on such a plan as will be perfectly satisfactory to the people.

Col. Moody. Mr. Chairman—I am not disposed to take up much time at this late hour. I have sat with the greatest patience to hear all the propositions that were offered, and I was in hopes some one would have been brought forward which would be agreeable to a large majority. I had a favorite proposition of my own which I was disposed to give up if that were the case. But when I hear what is said, I am almost induced to believe that it is best to adopt the proposition of the gentleman from Bath, because I believe it to be the nearest to an equal representation, although I think I see evils in that. If I were permitted to state the one which would bring justice to the line, I think it is to district the State. That is the only way of equalizing taxation and representation. I find gentlemen do not object to classification if others are also classed. Misery loves company. They are willing to submit to inconveniences provided others suffer the same inconveniences. The county of York is complained of. I am willing to have it districted as equally as can be. If we travel back and district the whole State, you have a system founded in justice and truth. You may then have taxation and representation go together. But I have despaired of this, and therefore advocate the proposition before us, because I think it the nearest to an equality.

The vote was taken on adopting Gen. Wingate's proposition, and it was negatived, 88 to 54.

The Hon. President then resumed the chair, and the Hon. Judge Thatcher reported, that the committee of the whole Convention had had under consideration the 2d and 3d sections of the 4th article of the constitution, relative to representation in the House of Representatives, and directed him to report the same without amendment; which report was accepted.

Mr. Emery. Mr. President—[a sort of shuffling of feet was heard and a call from one or two quarters of the house for the question—It was nearly eleven o'clock in the evening.] Mr. E. proceeded to remark in a louder voice, that "If he was to be silenced in that assembly by such measures, he should submit. The President then said by no means could there be a desire in any gentleman to conduct with such incivility. Pray proceed, Sir. Mr. E. then said if such were the design, he should attribute it to that spirit of opposition to every thing connected with a large town, or its representatives, which had so industriously, and so eloquently been fostered by gentlemen, who had long and successfully engaged the attention of the Convention.

Mr. Holmes rose, and called the gentleman to order—the gentleman from Portland had no right to question the motives of any other gentleman in debate.

Mr. E. replied, that if he were out of order, he should most cheerfully acquiesce in the correction from the chair. It justly appertained to that station to settle such questions.

The President considered Mr. E. in order.

Mr. E. For hours, Mr. President, the language has been that which could not be understood, to lead to any conclusion but that the small towns by every consideration which would work on their hopes or their fears, were to be excited to restrain the large towns from an equal representation.

Mr. H. claimed the protection of the house. He said he had not used such language—at any rate he disavowed all such motives, whatever were his observations.

The President said, he reluctantly was obliged to acknowledge, that the language used by the gentleman from Alfred, seemed to carry the meaning attributed to it by the gentleman from Portland.

Mr. E. said, since the gentleman disavows any motives hostile to the interests of the large towns, I most cheerfully exoner-

ate him from entertaining them. But while Mr. E. was willing to concede this to the gentleman's very late disavowal—he could not divest himself of the recollection of some of the observations made by the gentleman from Alfred, which to the understanding of most men would carry the conviction that they were calculated to increase the unpleasant feelings of that description of corporations, however innocent and pure even the views of the gentleman who used the language. And Mr. President, it is necessary to review those observations, that we may come more coolly to the decision of the matter now in debate. When the inquiry is made why is it necessary to take care of the rich men of rich and large towns—does it not contain an implication that they are neglected—or have some cause of complaint that they are not equally represented and protected? Does it not amount to telling them that however they are treated, it is equal to their deserts. When it is said they are great sores, and great evils, and the aid of the name of the venerable Jefferson is invoked to sanction the assertion, is it done without an expectation that it will be believed, coming from such high authority? Is it expected that with the remark, that from such sources of impurity, great talents, if more resplendent, will be more respected? Would not this language in any other case be calculated to induce gentlemen to look with any eye of suspicion on delegates from those places, to hear with almost closed ears every thing which could be said in favor of the rights of those towns?

The gentleman has been long in the legislature of Massachusetts—He assumes to speak on this occasion as a witness, and informs us that he has seen the great speculators in Boston carrying measures through the Legislature, which a plain farmer would not dare to think of. Mr. President, Boston is not now on trial—she is not here to make a vindication. That great and noble designs have their origin there, no one can doubt—and gentlemen of elevated patriotism have there always been found, to carry their designs into execution. But would any gentleman take the language which we have been doomed to hear as communicating praise to the inhabitants of that place? Did not all with one accord fall into the belief, that the schemes and measures carried through the Legislature, which a plain farmer did not dare to think of, were measures of such a character as required the hardihood and “*impure sources*,” of great towns only to originate? So abandoned as would shock the honest integrity

of a farmer to reflect on a moment? And would not every one conclude that those nefarious practices to which the gentleman alluded as adopted at Boston, would be resorted to in the large towns in this State?

Language of this description, and thus applied, when all great towns are alive to the operation of the principle which avows their inhabitants are not of equal consideration with inhabitants of smaller towns, must strike every Delegate from a large town with alarm. For while the inhabitants of the smaller towns are praised as the favorites of Heaven, a warning is made to them against the judiciary influence, against the plots and schemes of speculators, and the knavery and tyranny of merchants, which makes, as the gentleman says, all the wealth of the country pour into the large towns. And withal we are told that the agricultural interest is in danger.

But is the gentleman aware of the effect of his highly wrought statement? Were such unheard of and unrighteous schemes absolutely carried through the Legislature of which he was a member, and he, the watchman of the people's rights, silent? Were so many of the yeomanry of Massachusetts, who were of the Legislature, silent and unconcerned spectators of the progress of iniquity under the sanction of laws, without their protest on the records? To believe all this would be to credit one of the most extraordinary libels ever made against a legislative body. Mr. E. said he did not believe it. Much must be placed to the rhetorical colouring which the gentleman so frequently displays.

Unquestionably in consequence of the great activity of commerce in the capital, the extensive information, the liberal and enlightened views of merchants and scientific men who throng there, measures of the highest importance are proposed to the Legislature for their sanction, which perhaps, on account of the locality of other members from the interior, have not before been the subject of their contemplation.—But when to their understanding the bearing of the objects to be accomplished was well explained with an independence characteristic of those usually selected for our Legislature, they have given their support, to what they thought the interest of the Commonwealth required. For one Mr. E. said he had the highest confidence in the integrity of the citizens of the smaller towns.—They usually understood their interests, and from them would come to the Legislature, some of the most influential and able

members. Let us look to this very assembly. Mr. E. said that for example, he would ask whether the town of Alfred would complain of the want of ability of their delegate in this Convention? What project has he brought forward which has not found ready and able advocates? What measure has he not carried against every opposition?

That which has been, will probably again occur, and we may yet see representatives from the smaller towns run a triumphant career.

It may well however be wished for the honor of the State, and for the promotion of republican virtue, whoever may be the successor of the gentleman from that respectable town, that he will wield other arguments than those addressed to the jealousies and the ignoble passions of the assembly with which he may be destined to associate.

Mr. Emery further remarked, that it was truly farcical to suppose the agricultural interests in danger. They would be most numerously guarded, and the towns, most filled with inhabitants and property, must pay for the services of those who would be most directly employed for the protection of the interests of agriculture.

The motives of gentlemen who have assailed the large towns with the most singular and unjustifiable insinuations, we are not to impugn. It is true that the *effect* is of more consequence to the injured than the *motive*. The *terms used*, however, must not be forgotten. The *tendency* of them, to say nothing of the motive, no one can mistake. They are calculated, Mr. Emery said he must repeat, to array the poor against the rich, to encourage usurpation of the rights of others, to excite and inflame animosities, and all to procure the acceptance of the report on the subject of Representatives at all events. There is manifest displeasure at the discussion in opposition to it. A resolution, is indicated to decide the matter at this time, and crush complaints at once.

In this course, Mr. E. said, he should suffer only as one. But, is this honorable body to be goaded and hurried on to a decision when their antipathies have been roused, when their jealousies have been addressed and kindled, when the prejudices of many are flattered, and their love of power expanded? For it is in reality a struggle for power of the small against the large towns, and equal rights of citizens in the latter, have been dismissed as too troublesome for adjustment.

You are urged now to settle the question, not in the calm deliberation in which you have been advancing, but in an almost convulsive impatience at delay, and in a sort of overbearing derision of the distress of those who are to suffer by an unequal apportionment.

You are deeply interested to hear more ! There are various propositions yet before you exhibited previously to the President's resuming the chair, which have had no examination. The proposition of Mr. Neal, and of Mr. Wilson, which seemed, when announced, to arrest the attention of numbers, and instantly command their approbation ; that of Mr. Baldwin, which he says is the prettiest thing in the world, with some others of respectable import, and this of Mr. Wingate, which by some is professed not to be clearly understood, and by others is preferred to the report of the committee. In these circumstances can you proceed coolly and conscientiously to slide over those not examined, as matters which merit condemnation without a hearing of the reasons which actuated their authors ? Would this comport with the dignity of the Convention ?

The debate has been long protracted. It is pressing hard upon midnight. Sometime past, an adjournment was negatived, though called for after the ordinary time. For the honor of the assembly, Mr. E. said, he most devoutly hoped a decision would not then be had, but that an adjournment would take place.

Shall it be said that this most momentous of all questions was settled in a midnight session ? When the attention was fatigued, and feelings not of the best sort had uncontrolled dominion, when reason slumbered, and the eyelids weighed heavily ? Is this the state of mind in which you heretofore believed your vote would be given ? Would your constituents applaud you for such conduct ? Could those members, whose propositions, made in good faith, have been treated with mortifying and unprovoked neglect, think well of the proceeding ? Will they not say we were *invited* to lay them on the table to be read and *to be slighted*—to make way only for the *infallibility of projects* from another quarter ? When these things are known, do you think they will have no weight with the people ? Would it be a trifle that you should put at hazard the acceptance of your constitution ?

You have the power of declaring that all these considerations are matters of indifference. You can exercise the power. If you do it, Mr. E. said, it would be an occasion of sorrow to him

for he entertained the most profound respect for the Convention.

He thought it would not be matter of pleasing contemplation to any one to-morrow. In the quiet of retirement a fairer view of the subject in its various lights and bearings may be taken, and in the morning he hoped they would all meet in a spirit of justice and conciliation.

Mr. E. then moved an adjournment, which was carried.

WEDNESDAY, OCT. 27.

Mr. Holmes, chairman of the revising committee, reported the 2d, 3d, and 4th articles of the constitution, as examined by them; and thereupon, *Ordered*, That the said articles now be engrossed.

The Preamble and Declaration of Rights, or the 1st article of the constitution, as reported by the revising committee, as being correctly engrossed, was again read.

Judge Thacher said, he wished the constitution to go out to the people with the appearance of being founded upon religious principle. He had found much anxiety on the subject, and moved to amend the 3d section by inserting the word "duty," which motion was decided to be out of order.

Mr. Knight then called up his amendment, to insert after "test"—"but a belief in the Christian religion."

Judge Thacher said, he did not know why a Jew should be excluded; he has the same belief in Jehovah, the God of Abraham. We have the same hold on him in administering an oath.

The motion was lost.

Mr. Knight proposed to insert, "but a belief in the being of a God."

Mr. Dole, of Alna, hoped motions so trifling and pernicious in their consequences would not be debated.

Gen. Wingate said, the motion amounted to nothing, since a man, who did not believe in the being of a God, would be willing to swear that he did.

This motion was also lost. The article then passed unanimously.

To-morrow, at 10 o'clock, was assigned for coming to the choice of a Secretary of State *pro tempore*; and that nominations be suspended in the mean time.

Resolved, That Mr. Preble, of Cumberland, Mr. Thacher, jun. of York, Judge Ames, of Lincoln, Mr. Jarvis, of Hancock, Mr. Burgin, of Washington, Mr. Gage, of Kennebeck, Mr. Virgin, of Oxford, Mr. Colburn, of Somerset, and Mr. Stetson, of

Penobscot, be a committee to prepare an address, in behalf of the Convention, to the people of Maine, to be distributed with the constitution submitted to the people.

The Convention further considered the motion made by Mr. Dearborn, for reconsideration of the vote relative to the subject of representation in the House of Representatives.

Col. Atherton. Mr. President—I did not intend to have taken any part in this debate, but the subject has taken so wide a range, and so many expedients have been offered, without producing a conciliation of the different conflicting interests, that I can no longer, without a total disregard to the duties I owe my constituents, remain silent. Notwithstanding the numerous projects on your Honor's table, I do not yet feel satisfied that any one has been offered which ought to take precedence of the amendment I proposed.

I am still of the same opinion, notwithstanding all the ingenuity which has been displayed by various gentlemen of this Convention, that districting upon an extensive plan, and apportioned to the population of counties, will be found to be the most equal and convenient system. The representation of this State never ought to exceed *one hundred members*. This number is amply sufficient for all the purposes of legislation. Let the counties be districted equally on the population, and pay the members out of the public chest, and make it imperative that all those returned members to the Legislature should, at every session, be at the post of their duty. Here, Sir, you have an equal representation, formed on the basis of strict justice to all, which will cost the State one third less than the proposed plan; but, Sir, on the reported system, at least 75,000 of your freemen are deprived of the right of representation. Where, Sir, do we find these 75,000 disfranchised citizens? A part of them fall on the class to which the town I have the honor to represent is annexed. We had more than sufficient in numbers to entitle this town to one Representative, yet the committee joined another to it because they knew not what else to do with it. Another portion of the loss falls on the town of Portland, which, on every principle of equal representation, is entitled to six Representatives.—And thus unequally does this classification of a part of the towns operate throughout the new State.

Sir, this system, if system it can be called, which has neither proportion, form or comeliness—has all the odious features of districting, so much dreaded and deprecated, without any of its

equal advantages. Towns of less than 1200 send a Representative, while classes exceeding 3000 also send but one. I confess I do not understand why a thousand inhabitants of the town of Hallowell are not equally entitled to their right of suffrage as the same number in any other part of the country. I confess, Sir, I have none of these jealousies.—I do not perceive why the interests of the great and the small towns are not identified.—Nor can I understand the motives of gentlemen, who have attempted to excite the distrust of the small against the large towns. I do lament, Sir, that the Hon. gentleman from Alfred should have made use of any expressions having this tendency. He has given us the high authority of the sage and philosopher of Monticello, “that great cities are great sores.”—I do not believe this to be true as applied to well regulated cities, nor do I believe in the infallibility of all the speculative opinions of that truly great man. In the same work, quoted by the Hon. gentleman from Alfred, may also be found a sentiment of this sort—“that it matters not what a man’s religion is, so long as it neither picks my pocket or breaks my leg.” Perhaps, Sir, as a general principle, of not interfering with the religion or rights of conscience of others, this may be correct—but, Sir, the want of this same religion has picked many a man’s pocket and broken many a neck. [The President here interrupted, and doubted whether the gentleman was perfectly in order.] Mr. A. explained. Sir, I have not taken a wider range than the gentleman from Alfred (Mr. Holmes) was indulged in. He alluded to the same personage and to the same work, and I thought it proper in this way to reply to that part of his argument. [The President decided that Mr. A. was in order, and directed him to proceed.] It was far from my intention, Mr. President, to detract in the least from the merits of the great personage in question.—He is undoubtedly one of the distinguished lights and ornaments of this country; but his speculative opinions are as open to animadversion as those of any other man.

Next to the system of general districting (if this cannot be attained) I would hold fast to the plan proposed by the Hon. gentleman from Bath, (Gen. Wingate) as being the next best system. Sir, I admire the magnanimity of this gentleman, for presenting us with a system which, if adopted, will rise superior to all petty distinctions and jealousies between the great towns and the small. To this, Sir, let us cleave as to the sheet anchor of our safety—as to our last forlorn hope.

Let us not, at the outset, deprive one quarter part of our fellow citizens of their elective franchise. But let us seasonably take warning from the disturbances and massacres which have recently happened in another country, on account of the people's contending for the very rights we are about to deny to our own citizens.

Judge Cony said he did not rise, expecting to exhibit new views on the subject, the discussion of which was nearly brought to a close. But I believe, said the Judge, it will be of use to our constituents, as well as the different projects which have been laid on the table. Gentlemen say we shall not be able to get a perfect system. Sir, we are all imperfect. The question we should decide, before we complain is, is the system just and equal? The constitution of Massachusetts says, "in order to provide for a representation, founded upon the principle of equality," and by this mode seventy towns, besides the plantations, are not entitled to a Representative. Is this equal? Now let us look at the constitution as reported and adopted—does it approach nearer an equality? I was not its advocate—I was for districting. But, Sir, we come here from corporations, and having corporate feelings, which will have their influence. Why will not this report be amended? because there are more who think that, though not entirely equal, it is the nearest to an equality of any that has been proposed. I think, Sir, that it will secure our rights—that it is the best that will be adopted. Gentlemen say the constitution will be opposed by the people. I believe, Sir, the people will be satisfied with the provision for the Governor and Council, the Judiciary, &c. With respect to the House of Representatives, I believe the provision is as equal as any on the table, though if the Convention would district, and have but one hundred Representatives, I might vote for an amendment. But I hope we shall come to some proposition in which we can all unite, and which will be agreeable to our constituents.

Mr. Holmes said he did not rise to make a speech, but to offer a proposition. I hope, said he, we shall exhibit a disposition to accommodate and to yield something to opinions different from our own, and I think we are in a better state of feeling for this purpose than we were last night.

I hope, Sir, the progressive principle will be preserved, though not with so great an increase. There need be no reconsideration to adopt this alteration. But I think it will satisfy

the large and the small towns. It is not mine, nor precisely what I wish.—Nor is the constitution mine—nor are there many articles which perfectly please me. But we must get one as good as we can. It is but a choice of evils, and we must have a spirit of accommodation.

The motion of Mr. Dearborn was then so far withdrawn by the mover, as to admit the following :—

Mr. Holmes moved to amend the 3d section, 4th article, in the second line strike out “ 4000,” and insert “ 3750 ;” and in the fourth line strike out “ 7500,” and insert “ 6750,” which motion passed in the affirmative, 164 to 80.

Mr. Holmes said, an amendment has been passed in a spirit of accommodation by the large towns—let us now see if something cannot be done for the small towns.

A further amendment was then moved by Mr. Holmes, by inserting, at the end of the 3d section, 4th article, part 1st, these words :—“And whenever any town or towns, plantation or plantations, not entitled to elect a Representative, shall determine against a classification, with any other town or plantation, the Legislature may, at each apportionment of Representatives, on the application of such town or plantation, authorise it to elect a Representative for such portion of time and such period as shall be equal to its portion of representation, and the right of representation, so established, shall not be altered, until the next general apportionment.”

Some few remarks, and objections to this amendment, were made on the part of Judges Dana, Thacher and Parris, Dr. Rose, Mr. Dole, and Mr. Allen, of N.

Mr. Holmes observed, that the proposition was not understood. It was, that in forming classes, the Legislature might give one town a right to send a Representative according to its population, and class the others. What, asked Mr. H. if a town with 1200 inhabitants is surrounded by towns having a right to a Representative, what will you do with such a town? On the application of that town, the Legislature, in forming classes, will take it into consideration. It would do manifest injustice to such towns not to give them the right to elect Representatives ; a portion of time equal to their proportion of representation.

This amendment then passed in the affirmative, 166 to 45, and the said sections were so amended.

Several propositions were made in writing, as substitutes for

the 2d and 3d sections, 4th article of the Constitution. The propositions, (some of which have been noticed) were from Mr. Wilson, of Bingham, Mr. Stevens, of China, Mr. Baldwin, of Mercer, Mr. Grover, of Bethel, Mr. Neal, of Elliot, Mr. Tucker, of Standish, Mr. Thomas, of Eden, Major Swan, of Winslow, Mr. Allen, of Norridgwick, Mr. Shaw, of Newport, Dr. Rose, of Boothbay, Judge Cony, of Augusta, Major Treat, of Bangor, Mr. Riley, of Newry, Mr. Leonard, of Brewer, and Mr. Johnson, of Jackson ; which were severally read, and ordered to be placed upon the files of the Convention.

Article 11th, section 1st, was again taken into consideration. Gen. Wingate's motion to strike out that part of the section which provides for the first House of Representatives, and substitute a provision similar to that of Massachusetts, was taken up.

Judge Cony said, there would be much business come before the first Legislature, and he did not perceive the necessity that it should be so large as three hundred ; and if it were so, he should not be in favor of the amendment.

Mr. Dearborn said, there are now 147 members from Maine, and that upon this proposition, it would amount to 180 or 200, and not more.

Mr. Adams, of Gorham, said, in 1813, or about that period, when party excitement was at its height, there were actually elected, if I do not misrecollect, nearly 240 members, in the District of Maine, of the House of Representatives. If, then, we should in the same mode, elect our first House of Representatives, and in addition allow every corporate town, not having 150 ratable polls, to elect one Representative, our first Legislature will contain, at least, 300 Representatives ; for the people will surely be disposed to exercise their elective franchise to its fullest extent. The people however do not wish nor expect, the opportunity of electing so unwieldy a number ; they desire that the number may be much, *very much* reduced.

Mr. Dearborn referred to the Convention, which had but about 300 members, and many towns send, which will have to be classed.

Mr. Holmes said, we made a report apportioning the first Legislature so as to contain 146 members, with classing the plantations. This proposition provides only for those towns to choose, which are entitled to elect under the Constitution of Massachusetts, and to class the others. On the one hand, the

House, if this is adopted, will be more numerous, and on the other, more expensive. He did not however think it a matter of great importance.

Mr. Thacher, of Saco, hoped the motion would not prevail. In the county of York there would be fifty Representatives, and he thought twenty five would do quite as well. There must be two sessions of the Legislature, which must sit not less than eighty days, and at an expense of forty thousand dollars.

Mr. Usher could see no good reason for the amendment. It had been said our expenses would be lessened; the business could be done with more despatch and harmony by a smaller number.

Gen Wingate then withdrew his motion.

A different arrangement and apportionment of Representatives, from that in the printed report, in the counties of Penobscot and Oxford, agreeably to the report of the committees from those counties, was accepted.

The apportionment of Representatives for the counties of Lincoln and Hancock, was committed to the delegates from said counties respectively, for them to consider said apportionment, and to report this afternoon.

Section 2d passed with a small amendment.

Section 3d passed without amendment.

Section 4th was read.

Mr. Baldwin. Mr. President—It appears to me this section delegates to our Legislature a stretch of power, that no Legislature on earth has a right to exercise. “Whenever two thirds of both houses shall deem it necessary to propose amendments;” and pray, Sir, why not when a majority shall deem it necessary? Or why not when a majority of the people shall deem it necessary? Is it too great a privilege for the people to exercise this right? for a right it is, and one that never ought to be wrested from the people. Is it too much expense to insert in this Constitution, that seven years hence, or in the year 1826, the selectmen in the several towns in Maine, shall insert an article in their warrants, for taking the sense of the people on this most important question? *Two thirds of both houses!* And suppose one third of the people sustain intolerable grievances from year to year, in consequence of the present mode of districting the State into counties; and suppose further that our Senate and House of Representatives, should be made up with a majority of haughty, aspiring men, who care nothing for the rights of the

people? Is it such a dangerous thing to trust the people with a right, of once in seven years giving their voice whether they wish to revise their constitution? Look into other constitutions, Massachusetts and New Hampshire, and see what is right there. And are the rights of the citizens of Maine less dear to them, than those of Massachusetts or New-Hampshire? Suppose, Sir, your Legislature should be made up of men, that from year to year, and for ten years, should deem it unnecessary to revise the constitution, and if for ten, why not for twenty, or even for an hundred years. Suppose this should be the case, when is your constitution to undergo a revision? Look into the constitution of Great Britain, and witness the privations and sufferings of the people there. When are they like to obtain a revision of their constitution and redress of grievances? And are men any better by nature here than in Great Britain? Deprive the people of their power, give unlimited power to their rulers, under any form of government, and witness the consequence. Is it more safe to trust the people with the right of revising, or to give their rulers unlimited power? Every man acquainted with history can easily answer. I hope this section will never go to the people in its present form.

Mr. Herrick moved to strike out "whenever two thirds of both houses deem it necessary," and insert "in the year 1824, and every tenth year afterwards." This motion was lost, and the section passed with a slight amendment.

Section 5. Mr. Johnson, of B. moved to strike it out, considering it obligatory and *ipso facto* a part of the constitution, without a vote of the Convention.

Mr. Holmes would retain it, as the act of separation expressly requires it to be adopted as a part of the constitution.

The motion was negatived, and the section passed as reported.

Section 6th and last passed without debate: and the Convention
Adjourned.

AFTERNOON. Resolved, That Col. Moody, Judge Par-
ris, Gen. Chandler, Gen. Kendall, and Col. Pond, be a com-
mittee to consider and report the day to be named by the Con-
vention, when the inhabitants of the several towns and planta-
tions shall give in their votes for, or against the adoption of the
constitution for the new State; and also the manner in which
the constitution shall be published and distributed, together
with the accompanying address.

The committee composed of the delegates from the county of Lincoln, made a report upon the subject of the apportionment of Representatives in said county, (making some alterations from the printed report,) which report was read and accepted.

Capt. Delano, of Woolwich, complained of the arrangement of his town.

Mr. Holmes in reply observed, that it was deemed necessary to make the representation as equal as possible according to the counties—not deeming it possible nor important to get it very exact in every town—but to get it as equal as possible, consistent with equality in the counties, and the preservation of corporate rights.

The committee of Delegates for the county of Hancock, reported some alterations in the apportionment of Representatives on the west side of Penobscot river, which was accepted.

The following amendment was offered by Col. Lewis, to be added to Article 9th—*General Provisions*.

“Section 7th. And while the public charges of the State, or any part thereof, shall be assessed on polls or estates, in the manner that has hitherto been practised, in order that such assessments may be made with equality, there shall be a valuation of estates, within the State, taken anew, and in every ten years at least, and as much oftener as the Legislature shall direct ;” the above amendment passed in the affirmative without a division.

Col. Atherton moved to reconsider the vote, relative to the 5th Section, 7th Article of the Constitution, passed the 25th instant, and to substitute the section as it now stands ; and said,

Mr. President—I should not have moved a reconsideration of the vote taken on this section, did I not believe that the members of this honorable Convention are wholly incapable of withholding from the militia that protection of rights which, by the constitution reported, is freely bestowed on every other class of our citizens.

They do not ask it of us as a privilege, but they demand it as a right. Thirty thousand of the soldiery of this district have their eyes fixed on this Convention with anxious solicitude—deny them their reasonable requests, and however estimable, in other respects, the constitution may be which you will send forth to the people, it will be rejected.

Sir, I would always hold the military in exact subordination to the civil authority, but to do this it is not necessary to de-

prive them of all right. The petitions on your Honor's table speak in language which cannot be misunderstood—they take it for granted that the evils, which have long been endured, will now find a remedy by a salutary provision in this constitution.

I hope, Sir, I shall be enabled to do away some of the objections which were raised by the honorable gentleman from Alfred (Mr. Holmes.) On subjects of a legal nature, I should not have the audacity to put my opinions in competition with his—but on this question, after many years' experience of the injustice of the militia system, my judgment may have *some weight* even against the all powerful influence of that honorable gentleman.—He has intimated that the proposed substitution went even to compel invalids, and the aged and infirm, to perform military duty, or pay an equivalent. I will refer that honorable gentleman to the militia laws of the United States, where it is stated that none but “able bodied white male inhabitants of the age of eighteen and under forty-five years,” &c. are the subjects of military duty.

It is therefore useless to name as exempts, those who are positively made so by the laws of the United States. Other gentlemen are apprehensive that we shall legislate too far in this respect. I have no fears of this sort. If the militia have been proscribed is there any good reason why the proscription should be continued? I am in favor of remunerating the militia for their services, but it is impracticable at present to provide funds for this object. They will be satisfied if you will destroy the odious distinctions of exemptions and thereby equalize their burdens.

The proposed amendment will have the certain effect of filling the ranks of the militia. It will also create a handsome fund, which the Legislature will no doubt appropriate to the use of those who perform military duty.

By the aid of these funds and the arms to be received from the State and the United States, we may in a few years expect to see our militia completely uniformed, armed and equipped, and superior to any other troops of the kind in the United States.

I would ask, Sir, why we should leave this constitution at loose ends and give the Legislature unlimited power to create exemptions, with or without a reason at their pleasure. Suppose, Sir, (and we are bound to guard against *possibilities* as well as *probabilities*) that the Legislature should consist of a majority of men conscientiously scrupulous of bearing arms? What

would then become of your defenders? They would to a man be exempted by the section as it now stands in your constitution. And have we no apprehension this will be the case when the government itself holds out an invitation for men to become *conscientiously scrupulous*? We say in so many words, if you will become *conscientious* about this matter of killing, we will exonerate you not only from military duty, but also from an equivalent. Sir, there is another way found out in New-York, and other States, to obtain an equivalent for non-performance of military duty. It is by a *commutation tax*; the scrupulous in New-York have paid as high as six dollars per annum on this tax for public uses, not however to be connected with the military. Here then is a mode pointed out which will seem to obviate all difficulties. I am willing to leave that respectable class of our citizens called "Friends" in the hands of the Legislature, and thus does the substitute I offer provide.

In the year 1814, a military convention was convened at Gray—it was numerously attended—and a petition to the Legislature unanimously adopted, pointing out the grievances suffered by the militia. Numerous other petitions from every part of the Commonwealth followed. And what became of them? They were ordered to lie on the table, or if committed were never heard of more.

The members of the Legislature first decreed themselves exempt from military duty while legislating—They next decreed in favor of a host of Justices of the Peace, and other petty officers—and these were followed by other exemptions, and discretionary power to exempt, until we lost nearly one third of our whole physical force.

Sir, have we any pledge that a future Legislature will not do the same? Leave it in the power of the Legislature, and at the first session they will have an application to exempt 140 enginemen from this town. Why, Sir, let me ask, should the State furnish enginemen for the town of Portland? And to the ruin too of the whole military establishment of the town. I well remember, Sir, during the last war, that the Portland regiment, which ought to have been 800 *strong*, mustered but about 300 men. At the same time the exemptions amounted to nearly 500. The militia I consider as owing their services and allegiance to the whole State and not to a single town—I never found them backward at fires, but always willing to do as much as the *favoured* exempts themselves.

During the war, and while the militia were ordered out for the defence of Portland, the companies of artillery and infantry were filled by drafts from the country.

Having occupied some time on this subject, previous to this, I will not longer detain the Convention, being fully persuaded that we shall not disappoint the just expectations of our constituents, who have a right to expect that we shall measure out equal justice to all.

Gen. Chandler said, he was very well satisfied that something should be done to relieve the burdens of that class of the community. He thought it would be one of the first duties of the Legislature to do them justice, and hoped the motion would prevail.

Mr. Holmes said, I do not recollect but two exceptions which I should make to this amendment. One is, its providing that certain persons may be exempted, and not others. The other is, that it is too strong; that it prohibits the Legislature from exempting others, even for sufficient reasons.

Mr. Baldwin displayed, at some length, the unequal burden borne by the militia, the main pillars of our independence, which in his opinion was not only extremely unjust, but cruel and tyrannical, and ought to be remedied. He was strongly opposed to the plan of clothing, equipping, and arming them, as being liable to many difficulties, and degrading to the soldier. If they receive any compensation, said Mr. B. let it be liberal—relinquish their poll taxes, and let them remain gentlemen, if you wish to maintain the spirit and genius of freeborn patriots.

Mr. Shepley hoped the subject would not be passed over slightly. The people expect their rights to be secured to them. They ask for no excuse from duty, but only that others should not be exempt from performing duty; but only that others should not be exempted from performing what they do themselves, and this is perfectly reasonable.

Mr. Herrick, of B. thought there was too much disposition to shift responsibility from the Convention to the first Legislature. He thought this the time to make our rights and liberties secure: he was in favor of the motion.

Mr. Stockbridge remarked, that the motion of Col. A. would prevent the Legislature from making exemptions on account of religious scruples, which power he thought they ought to possess.

Mr. Allen said he should be willing the militia should have

some emolument ; he hoped none would be exempted without an equivalent.

The President observed, that it was apparent the burden now fell heavily upon the poorer classes. He was of opinion that an equivalent should be given, by those who were excused, to be regulated by law, and bear some proportion to the amount of property which was protected by the militia. In some of the States, 50 per cent. is deducted from taxes of those who do military duty, which operates as an equivalent to those who pay the taxes.

The motion for reconsideration prevailed, and the section was stricken out. And the motion to adopt the substitute of Col. Atherton passed almost unanimously, and the section was so amended.

Judge Green, chairman of the committee appointed to prepare a petition to Congress for the admission of Maine into the Union, made a report which was read, and ordered to lie on the table.

Col. Atherton gave notice that he should call up his resolution to appoint a committee to locate the seat of government, to-morrow at 9 o'clock.

A motion was made to fix the salary of the Governor at from \$ 1200 to \$ 1500, which was advocated by the Rev. Mr. Hopper, of Paris, who said the people expect it. But the motion was negatived, by 150 to 29.

Adjourned.

THURSDAY, OCT. 28.

Mr. Weymouth, of Belmont, submitted a proposition relative to the judiciary, which was read and ordered to lie on the table.

Ordered, That Col. Moody, Judge Parris, Gen. Chandler, Gen. Kendall, and Col. Pond, be a committee to consider and report the time and place to which this Convention shall adjourn, in order that they may finish the business assigned them, by an act relating to the separation of Maine from Massachusetts proper, and forming the same into a separate and independent state.

Mr. Holmes moved an amendment to be inserted in article 10th, schedule, section 1st, providing for the election of persons to supply the vacancies which might happen by the death of the President, or Secretary of State *pro tempore*, which passed in the affirmative.

Col. Moody, chairman of the committee appointed yesterday, upon the subject of printing and distributing the constitution and address, submitted the following resolution, which was read and passed.

Resolved, That the Secretary of the Convention be authorised and required, to procure to be printed, a sufficient number of the copies of the constitution and the address to the people of Maine, and distribute, as soon as may be, one copy to the selectmen of each town, and the assessors of each district or plantation; one to each clerk of the several towns and plantations, and one to each of the members of the Convention; and also to cause the same to be published in the several newspapers printed within the district.

The same committee reported the following resolution.

Resolved, That when the business of the first session of this Convention is completed, the convention will adjourn, to meet on the first Wednesday of January next, at the court house in Portland.

Read and accepted.

Col. Atherton moved the following resolution, as a substitute for the one he had previously offered on the subject of location of the seat of government:

Resolved, That the first meeting of the Legislature of the State of Maine, and for the organization of the government, shall be in the town of Portland; which was read—and *Ordered*, That the above resolution be committed to the committee appointed to prepare and report a constitution or frame of government, for the new State.

On motion of Col. Moody, three o'clock this afternoon was assigned for coming to the choice of a Treasurer.

Mr. Stockbridge moved to amend article 4th, section 5th, by inserting, after ministers of the gospel, "and those whose religious sentiments forbid their engaging in war." It has been remarked, said Mr. S. that the constitution is generally acceptable to the people abroad; but this section has been altered so as to make it imperative on the Legislature, to cause all persons, except quakers and shakers, judges of the supreme court, and ministers of the gospel, do military duty, or pay an equivalent. Now, said he, if a sect of Moravians should arise in the State, whose religious sentiments forbid them to perform military duty, it would be hard to lay the burden on them. There are many in this Convention, who cannot vote for the constitution, unless

this provision is made ; and as the gentleman from Prospect has consented to this amendment, I hope it will be adopted.

The motion was negatived.

Mr. Stockbridge proposed to insert " licence to preach the gospel "

Dr. Rose moved to strike out " ordained and settled."

Mr. Holmes said he hoped it would be struck out. There are many candidates and missionaries in different parts of the State who we do not want in the ranks of the militia.

Col. Moody and Gen. Chandler opposed the motion, because it would be difficult to decide who were ministers of the gospel.

Judge Thacher said, it might bring on a question between the law and the constitution. Every one, said the Judge, is in one sense, a preacher of the gospel, as it is his duty to preach and also to practise ; and no others are ministers of the gospel—for if he preach and does not practise, he is a liar. Travelling preachers would not be exempted ; but if it were left, ordained ministers, it would be left to the judiciary, to settle it according to the New-Testament and words of Christ himself.

Mr. Thacher, of Saco, hoped the motion would not prevail. If it did, there were fifteen or twenty of Cochran's Society who would claim an exemption, and a whole division of self-made preachers would be exempted.

Mr. Locke considered it of great importance. There are, said he, many ordained ministers, who are not settled, and who think it their duty to go as missionaries—to " go and preach the gospel to every creature." He thought they ought to be exempted, or it would not be equal, and hoped the motion would prevail.

Judge Dana. Mr. President—I should not have risen on this subject, if some of the remarks of the Hon. gentleman from Biddeford were not calculated to give a wrong impression, and that I might remove the apprehensions of the gentleman from Saco, Mr. Thacher, that if the amendment takes place, we shall have a brigade of renegade exempted preachers. I fully agree with him that every ignorant enthusiast, who can collect people enough together for an evening meeting, ought not to be exempted from doing military duty without paying an equivalent. Nor does it follow, by any means, if the words *settled* and *ordained* are stricken out, that such impostors will be exempted. Will not the Legislature be as suitable judges, as we, who are and who are not ministers of the gospel ? and why should we,

who come here to form a constitution, assume the duties of Legislators? Our business is to prescribe the form of government and to establish general principles: but not to descend to an application of them; this will be the duty of others chosen for that purpose; and we ought to have confidence in future Legislatures: they will discriminate, and justly decide, who are ministers of the gospel and who ought to be exempted. Gentlemen appear to be alarmed that we are about to extend the principle of toleration too far. I can assure them there is no danger—we cannot extend this principle too far; for experience teaches us, that religious frenzy and enthusiastic wildness can never be checked by coercive measures; but will thrive best in opposition. If you would correct this evil, you must correct the public taste and improve the moral sentiment—by educating your youth in a suitable manner; for with ignorance dwells superstition; and wherever the people are fond of being imposed upon, and deceived, *there* you will always find impostors and deceivers. There is another reason why the words *settled* and *ordained* should not be fixed in the constitution, as descriptive of exempts; because denominations may arise among us, who shall have able and pious teachers, who ought (if any) to be exempted from military duty, and yet do not come under the above description; and I believe there are now some of this kind: how unwise and unjust it would be to select those teachers of religion, and those only, who belong to particular denominations, as candidates for favour, to the exclusion of all others—it would be an invidious distinction, and such an one as I hope and trust we shall not adopt.

Col. Moody said, there was no standard by which to decide who are ministers of the gospel, and if this amendment were accepted, he should be induced to move that no minister should be a member of the Legislature, as they might possibly be a majority. He would ask Mr. Locke, if there was any thing incompatible, for a minister who is not settled, to do military duty? If he travels agreeably to the precept, and *preaches to every creature*, he will not remain long enough in the same place to become liable, and if he returns I see not why he should be exempt. I think it proper for these lights of the world to go sometimes and give light to those, as they are called, offscouring of the earth—to christianize and also to civilize them.

Mr. Hobbs thought gentlemen need not be so much alarmed. Every preacher of the gospel ought to be exempt. The gen-

tleman from Saco said every fourth man is a preacher, and mentioned the Cochranites—but they have lost their head and must soon die.

The amendment proposed by Dr. Rose, was accepted, 143 to 51.

The Convention proceeded to the choice of a Secretary of State *pro tempore* for the new State, by ballot. The whole number of votes was 277 and there was no choice. At the second balloting the whole number was 270, ASHUR WARE, Esq. had 157, and was declared elected. Accepted.

Judge Cony thought it would be proper to observe the usual practices and religious observances at the day of election, and and therefore he would move that an hour be assigned to elect a clergyman to preach the election sermon in May next.

Judge Parris thought it had better be postponed until the next session of the Convention.

Gen. Wingate asked, if we were to have all the parade and pageantry of the government of Massachusetts? He hoped we should be more republican. The practice had been much abused.

Resolved, That Judge Parris, Hon. Mr. Whitman, and Mr. Preble be a committee to receive the returns of the several towns and plantations, approving or disapproving of the Constitution prepared by this Convention.

Articles 2d, 3d, 4th, 5th, 6th, 7th and 8th of the Constitution were reported by the revising committee, as having been examined by them and correctly engrossed, were severally read again and passed.

Judge Thacher said, he did not know that preaching a sermon was anti republican. Other States had always practised it, and it is a good and wholesome custom.

After a little conversation the matter subsided and no vote was taken on the subject.

Mr. Johnson, of Belfast, moved to insert in article 7. section 5. "No able bodied male citizen"—because, although such are exempted from military duty, by the laws of the U. States, yet there is no impropriety in recognizing it, in our constitution, since it is not generally understood. This question was negatived, and the Convention

Adjourned.

AFTERNOON.—Mr. Low, of Lyman, the oldest member of the Convention, rose in his place and said, Mr. President, I

have said little in this Convention, but I have been an attentive observer of the proceedings ; and although I have ever been opposed to the measure of separation, I have been pleased to see the manner in which the important business of the Convention has been conducted, and with what has been done. I think it judicious and correct, and I shall endeavour to persuade the people to adopt the constitution—and I sincerely hope that no root of bitterness will spring up, to mar the harmony which has so happily prevailed during this session in this Convention. He then asked leave to offer the following

VOTE OF THANKS.

Resolved, unanimously, that this Convention present their thanks to their Hon. President, for the candor and impartiality with which he has conducted in his office, and for his successful endeavors to preserve peace and harmony during our session ; and that we tender him our wish for a happy return to his family, and the possession of all those blessings which sensibility can enjoy.

Which resolve, after being read by the Secretary, was unanimously adopted.

Upon which the President made the following reply :—

GENTLEMEN OF THE CONVENTION,

This testimony of your approbation is to me invaluable—If I have been successful in the discharge of the duties which the partiality of friends assigned me, to your uniform candor and support it must be attributed—which will always be gratefully acknowledged.

Permit me, gentlemen, to congratulate you upon the harmony and mutual respect which has prevailed during your deliberations and to hope that this spirit of toleration and good will, will be generally diffused by your example.

I will only add my best wishes for your prosperity and happiness, and that for your public services, as well as your individual exertions, you may receive the confidence and gratitude of your fellow-citizens.

Agreeably to assignment, the Convention proceeded to the choice of a Treasurer ; when it appeared that the whole number of votes given in was 263 ; necessary to a choice 132 ; and the Hon. ALBION K. PARRIS had 222 votes and he was declared elected.

Mr. Wilkins, of New-Charlestown moved the following amendment to the 10th article of the constitution, in these words

—"Section 8th, all taxes upon real estate, assessed by the authority of the State, shall be apportioned equally according to the just value thereof."

Mr. Wilkins said, he believed it had been the desire of the Convention to establish just and equitable principles, and that the manner of taxing property hitherto used was very unequal. He knew no reason why uncultivated lands should not be taxed equally with improved lands, and therefore was solicitous for the insertion of this provision in the constitution.

Col. Moody. I hope, Sir, the motion will prevail. I think there is justice in taxing wild lands, as well as other property, according to their relative value. I have ever been in favor of it, and have endeavored to have the rule established in the tax acts of the General Court; but it has always been defeated. I can see no reason for the distinction between improved and unimproved lands, and believe it obstructs the settlement of our wild lands, and that nothing would conduce more to this end than equalizing taxes.

Judge Ames said, that he was extremely gratified with the proposed amendment of the Hon. gentleman from New-Charlestown, and hoped it would be adopted, though he did not rise to offer any argument in support of the motion, believing, as he did, that no member of the Convention could possibly oppose it, who had witnessed the unequal system of taxation in the Commonwealth of Massachusetts. But fearing the motion might be withdrawn on the suggestion, which had been made, that the object of it was already secured by a provision, contained in the eighth section of the terms and conditions in the act of separation, he rose merely to offer his own construction of the provision alluded to. The provision is this:—"No laws shall be passed in the proposed State with regard to taxes, making any distinction between the lands and rights of property of proprietors, not resident in, or not citizens of said proposed State, and the lands and rights of property of the citizens of the proposed State resident therein." He said, to him it was clearly manifest from this provision, that the Legislature of Massachusetts intended nothing more than to place all the lands of non-resident proprietors upon an equal footing in relation to taxes with the lands of resident proprietors, and that this object only is effected by the provision of the Act—If therefore the wild lands of resident proprietors are taxed only at two per cent, the government of the new State can only tax the wild lands of non-

resident proprietors at two per cent; and, if one is taxed at six per cent, the other must be taxed at six per cent also. But this provision does not prevent the Legislature of the new State from taxing the wild land at two per cent, and the improved lands at six per cent. If however the Legislature of the new State do this in relation to the lands of resident proprietors, they are obliged to do the same in relation to the lands of non-resident proprietors. This (he said) was his construction of the provision in the act alluded to, and he hoped therefore the amendment proposed would be adopted—he was also in favor of it because it contained what was agreeable to the feelings and expectations of the people.

Mr. Holmes said he was much pleased with the proposition, but he would suggest an alteration in the proposed amendment, which is, that taxes on uncultivated lands shall never be apportioned less on their value than on cultivated. My object is, said Mr. H. that the Legislature should never assess *less* on uncultivated lands, but I would give them the power to assess *more*. We may find it good policy to tax lands in the hands of non-resident proprietors high.

Col. Moody objected to the amendment of the motion—it might be the cause of injustice, and give rise to unfounded fears.

Mr. Holmes replied, I would retain the power to tax overgrown speculators more than six per cent. It may become necessary to tax them so. Uncultivated lands may be surrounded by those that are cultivated, and will thus increase in value by the labor of others. The proposition holds out no false colours. I avow my meaning to be, to have the power of taxing those lands more than six per cent. if we find it necessary.

Mr. Wilkins said, all he wanted was a just and equal mode of taxing property—nothing more. He wished the uncultivated and improved lands to be put upon an equal footing, and declined altering his motion, as suggested by Mr. Holmes.

Judge Cony observed that he presumed the debates were nearly closed, that the final question was soon to be taken on the engrossed constitution, but a *motion* was made to *add* another *section*—it contains an important provision, and ought to be duly considered—if he understood its import, and its object, it was to prescribe a *rule* for the *equal* and *just* apportionment of *State taxes* on real estate. Sir, taxes ought to be equal according to a fair appraisal of the property taxed: all classes of our citizens will acquiesce in such a rule—those who pay a small

proportion, and those in the class to which he belonged, not really necessitous, and yet not far from it, would be satisfied, and the rich and the opulent, if not satisfied, they ought to be so. Under these impressions he should vote in favor of the *motion* made by the gentleman from New-Charlestown. But, Sir, the *amendment* to this motion, proposed by the member from Alfred, the Hon. Mr. Holmes, he could not support.—It contains a principle, avowedly, as he himself has explained it, authorizing the Legislature to levy *unequal*, ought we not to say *unjust*, taxes on real estate—property held the most sacred; and because it may happen to be held by non-residents. A principle, Sir, equally obnoxious and opposed both to justice and to sound policy. Admit this amendment, and we depreciate the value of our public lands fifty per cent. From the sale of those lands public credit will be sustained, our treasury replenished, our colleges and seminaries of learning endowed, and other objects of public utility fostered. Admit this amendment and we point a dagger to the vitals of the constitution. If the members of that honorable body viewed it in the light that he did, he felt confident they would reject it.

The motion of Mr. Wilkins then passed in the affirmative nearly unanimously, and the section passed as engrossed.

The remaining articles of the constitution were reported by the revising committee, as being correctly engrossed, and the same were severally read and passed.

The constitution having been passed upon, Mr. Holmes arose and said, Mr. President—I hope, Sir, every gentleman in this Convention feels the importance of the vote he is about to give. I hope each member feels the weight of his responsibility and character as depending on his vote. The question to be decided is, whether we shall receive or reject the constitution, which has now been completed; and, Sir, I do not fear the result. I see here men from all parts of our State, who would do honor to any country; and I never saw men who wished to conduct with more correctness and deliberation than have been exhibited on this occasion. The only inquiry with all has been, what is right? The Delegates came together, all wishing to perform the same thing—to form a constitution which should secure and promote the best interests of the whole. Sir, I have been delighted and amazed at the spectacle! During the whole of our session, I have seen a spirit which has done honor to the Convention. I never saw an assembly come together with better feelings, or part with better feelings. None of us can say, this

is my constitution—every one has sacrificed his private opinions to the general good. And I hope, Sir, this spirit will be carried through. I hope no one will think he is here for a particular object, but that in our final vote, we shall be unanimous.

What an event is this for the world—a body of men, deliberating on the first principles of a free government, giving up their feelings on the altar of patriotism! Where is the people who would not be delighted with the view? How would the nations of the world rejoice at the exercise of the right! Let Kings and Emperors envy us the happiness of our lot! It is not necessary to recapitulate the result of our labors. I will only allude to the general principles of the constitution. The authority of the public will—the right to personal security—freedom of worship—the right to speak and publish his sentiments secured to every citizen and to justify by giving the truth in evidence—a right to bear arms—personal protection of his property—the right to elect and to be elected—a balance in the two Houses of the Legislature—an Executive guarded from the exercise of oppression, but with the power to do right—an independent Judiciary, responsible to the people—the intervention of a jury in all criminal prosecutions. With these principles established—with such a constitution—proud we may not be—for it is not for fallible man to boast of the labor of his hands, or to confide in their stability. The generations of mankind are constantly changing and propelling each other into oblivion. It would be singular if we should all meet again in this world. To-morrow's sun will see us scattered to the four winds of Heaven, and the places that now see us shall see us all no more forever. But, Sir, with proud satisfaction may we reflect how cordially we have acted together, and now let us look to that Being, on whom we depend for all our blessings, to have us under his holy keeping, and to preserve for us everlasting felicity.

The question was now put upon the acceptance of the constitution for the New State, as reported by the committee, and now engrossed as amended, and the same passed in the affirmative, *two hundred and thirty-six* members voting in the affirmative, and *thirty* in the negative.

And the Convention

Adjourned.

FRIDAY, OCT. 29.

Gen. Wingate submitted the following resolutions:—

Resolved, That the thanks of the Convention be presented

to the Rev. clergymen, who have performed religious exercises during our session, for the able, devout and satisfactory manner in which they have discharged their duty.

Resolved, That the thanks of this Convention be presented to the First Parish in Portland, for the use of the meeting-house of said parish, gratuitously and generously furnished by them for the accommodation of the Convention.

The above resolutions were unanimously adopted.

The Secretary was directed to notify Hon. Albion K. Parris and Ashur Ware, Esq. of their election as Treasurer and Secretary *pro tempore*.

Resolved, That the constitution adopted by this Convention be published and sent to the several towns, districts and plantations within the District of Maine; and that the inhabitants, thereof qualified by law, be required to assemble in their respective towns, &c. on the first Monday of December next, to give in their votes in writing, expressing their approbation or disapprobation of said constitution.

Resolved, That the Secretary of State *pro tempore* and the Secretary of this Convention be directed to superintend the printing of the constitution, and also the several resolves which have been passed by this Convention and ordered to be published.

Resolved, That the Treasurer be authorised to borrow such sum of money, as may be necessary to pay the members of the Convention.

Resolved, That the Secretary of State *pro tempore* be requested to procure from the office of the Secretary of State of the United States, authenticated copies of the reports of the several Boards of Commissioners, relative to the boundaries and limits of the State of Maine, in that department; and likewise authenticated copies of all grants, and confirmation of grants, relative to the title and boundaries of the said State, in the office of the Secretary of State of the Commonwealth of Massachusetts; and that they be placed in the office of the Secretary of State of this State.

Resolved, That the application to Congress, for the admission of the State of Maine into the Union, be signed by the President, and forwarded to Congress by the Senator and the Representatives in Congress from Maine.

Resolved, That Judge Parris, Mr. Preble, and the Hon. Mr. Whitman, be a committee to prepare a proper form of a return

of votes on the question of the acceptance of the constitution, to be forwarded to the selectmen of the several towns, and the assessors of the several plantations.

The committee to whom had been committed the subject of the location of the Seat of Government, and to designate the place where the first meeting of the Legislature shall be held, Reported, that they had attended to the duties assigned them, and submitted the following Resolution as taken into a new draft :—

Resolved, That PORTLAND, be the place for the first meeting of the Legislature for the State of Maine ; which Resolve was read and accepted.—175 members voting in the affirmative, and 70 in the negative.

Previous to this vote being taken, Mr. Dearborn of Hallowell, moved to strike out all the report of the committee, after the word resolved, and insert “that——be a committee to designate the place and procure suitable accommodations for the first meeting of the Legislature of Maine, and for the organization of the government thereof, with directions to fix upon some place in the county of Kennebeck, and to report their doings to the Convention at their next session.”

Mr. Dearborn observed, that he made this motion for the purpose of bringing the question, at once, fairly before the Convention, without involving any conflicting interests of towns in Kennebeck ; and stated that as it was pretty generally understood that this question should be settled without debate, he wished it to be taken by yeas and nays. A sufficient number not rising in favor of calling the yeas and nays, the Convention was returned by the Monitors, 82 voting in favor of the amendment, and 156 against it.

Resolved, That the constitution as accepted by this Convention, be signed by the President, and countersigned by the Secretary ; and that the Secretary cause the names of those members who have signed the constitution to be entered on the journal, and that the same be annexed to the printed constitution.

The committee on the expenses of the Convention, exclusive of the Pay Roll, made a report which was read, and

Ordered, That the Treasurer be requested to pay to the several persons mentioned in said report the sums set against their names respectively ; amounting in the whole to the sum of five hundred and twelve dollars and twenty-nine cents.

AFTERNOON.—Ordered, that the Treasurer be directed to pay John Merrick, Esq. of Hallowell, the sum of twenty dollars, for services by him rendered ; as by his account examined and allowed.

On motion of the President,

Resolved unanimously, That the thanks of this Convention be presented to the committee, appointed to prepare and report a constitution or frame of government for the new State, for the ability and unwearied attention bestowed upon the subject committed to them.

The committee on the Pay Roll, made a report by which it appeared that the travel and attendance of the members of this Convention amounts to the sum of which was accepted, and *Ordered*—That the Treasurer be directed to pay the same.

Resolved, That an additional number of copies of the Constitution be printed, in order that the Selectmen, Town Clerks and Delegates, be furnished with four copies each, instead of one copy each, as before provided.

Agreeably to the Resolution offered in the morning, the constitution was signed by the Honorable President, countersigned by the Secretary, and subscribed by the members in the following manner :

Done in Convention, October 29, 1819.

WILLIAM KING,

President of the Convention, and member from Bath.

ROBERT C. VOSE, Secretary.

[The names of the Delegates followed.]

Voted, That when the Convention adjourns, it be to meet at the Court House, in PORTLAND, on the first Wednesday of January next, at eleven o'clock in the forenoon.

Adjourned accordingly.

Attest, **ROBERT C. VOSE, Secretary.**

SECOND SESSION.

PORTLAND, WEDNESDAY, JANUARY 5, 1820.

AGREEBLY to the adjournment, the Convention this day assembled, and there being a quorum present they proceeded to business.

Judge Parris submitted the following resolutions, which were severally read and passed, the names of the committees being afterwards inserted :—

Resolved, That the committee appointed to receive the returns from the several towns and plantations, be directed to take from the Post-Office, such returns as have been there received since the first day of January instant.

Resolved, That Messrs. Parris, Thacher, of Biddeford, Cony, Dole, Col. Pond, Dickenson, Stetson, of Hampden, Dr. French, of St. Albans, and Towle, of Porter, be a committee to examine the returns of votes from the several towns and plantations, on the constitution prepared by this Convention, and that the committee report the whole number given in, and what number were in favor, and what number were opposed to said constitution.

Resolved, That Col. Lewis, of Gorham, Judge Ames, of Bath, Mr. Campbell, of Winthrop, Col. Atherton and Mr. Vance, a committee to consider and report in what manner the adoption of the constitution and the admission of Maine into the Union shall be announced to the people.

On motion of Gen. Chandler,

Resolved, That Messrs. Wood, of Lebanon, Allen, Foxcraft, Cutter and Snow, be a committee to inquire into the expediency of furnishing each town and plantation in Maine with blank forms and returns of votes for Governor, Senators and Representatives, which may be given in on the first Monday of April next.

On motion of Col. Atherton,

Resolved, That the Hon. Asa Clapp, Matthew Cobb, Isaac Ilsley, Arthur McLellan, Barrett Potter, Robert Ilsley and Levi Cutter, Esq's. be a committee to provide suitable buildings

and accommodations for the meeting of the Governor and Council, the Senate and House of Representatives of the State of Maine, at their first session, to be holden in Portland on the last Wednesday of May next.

THURSDAY, JAN. 6.

Hon. Mr. Parris, chairman of the committee appointed to examine the returns of votes from the several towns and plantations in Maine, on the constitution prepared by this Convention, having attended the service assigned them, made the following report:—

That the whole number of votes legally and seasonably returned, is 9837, of which 9050 are in favor of said constitution, and 796 are opposed. And the committee further report, that the whole number of votes returned, were 10,899, of which 10,095 were in favor of said constitution, and 873 were opposed—which report was read and accepted.

Resolved, That the Treasurer of this Convention be and hereby is authorised to borrow, on the credit of the State of Maine, the sum of \$4000, to defray the expenditures of the Convention.

Resolved, That ——— be a committee to examine the books, accounts and vouchers of the Treasurer, with the view to an adjustment, and report thereon. [Gen. Wingate, Mr. Hsley, and Mr. Gage, were appointed said committee.]

Resolved, That ——— be a committee on the Pay Roll, and that they be instructed to make up the Pay Roll, including tomorrow. [Gen. Irish, Col. Lewis, and Mr. Dearborn, of H. were appointed said committee.]

Resolved, That the Secretary of State *pro tempore*, be and he hereby is instructed to examine and ascertain what documents and papers, in the office of the Secretary of the Commonwealth of Massachusetts, or elsewhere, are of importance for the use of the Legislature of Maine, and that he procure the same or authenticated copies thereof.

Resolved, That the Treasurer of this Convention be instructed to pay over to the Secretary of State *pro tempore*, the sum of \$100, to be accounted for by said Secretary to the Legislature of Maine.

Agreeably to assignment, the Convention proceeded to the choice of a person, who, in case of the death, or other disqualification of the President of this Convention, before the election

and qualification of the Governor under the Constitution of Maine, shall have all the powers and perform all the duties which the President of this Convention shall have and perform—and Mr. Preble, Judge Thacher, and Mr. Herrick, of Bowdoinham, were appointed a committee to receive, count and sort the votes; when it appeared that the whole number of votes thrown was 168: Hon. JOHN CHANDLER had 110 votes, and was declared elected.

They then proceeded to the choice of a person to succeed the Secretary of State pro tem. in case of the death or disqualification of the present incumbent, when it was found that the whole number of votes was 174—ROBERT C. VOSE, Esq. had 172 votes and was chosen.

Col. Lewis, from the committee appointed yesterday, reported the following resolution:—

Resolved, That the Secretary of this Convention be directed to publish in the several newspapers printed in Maine, the certified result of the votes from the several towns and plantations in Maine upon the adoption of the constitution as reported to the Convention—and that after the 15th day of March next, on condition that the proposed State of Maine shall have been admitted into the Union, the President be requested to issue his proclamation to the people of the State of Maine, making known such admission; and that the constitution proposed by the Convention, and adopted by the people, is the constitution and frame of government for the State. Accepted.

The committee appointed for the purpose reported forms of returns of votes for Governor, Senators and Representatives—and the Secretary was directed to superintend the printing and forward them to the several towns and plantations.

Agreeably to assignment, the Convention proceeded to the choice of a person to attend the Legislature and Executive, and address the throne of Grace by prayer, at the organization of the government of the new State—and the Hon. Judge Cony, Rev. Mr. Titcomb, and the Rev. Mr. Locke, of Chesterville, were appointed a committee to receive, count and sort the votes—when it appeared that the whole number of votes given, was 188: the Rev. Mr. NICHOLS, of Portland, had 133 votes, and he was declared chosen—and thereupon ordered, that the delegates from the town of Portland be requested to notify the Reverend gentleman of his election.

FRIDAY, JAN. 7.

Gen. Wingate, Chairman of the committee appointed to examine the book accounts and vouchers of the treasurer, submitted the following report :—That it appears by the accounts presented to the committee, by the Hon. A. K. Parris, Treasurer of this Convention, accompanying this report, he has received the sum of \$19,742 12 cents ; that he has paid to the members of this Convention for their travel and attendance, the first session, the sum of \$16,000, and for accounts allowed, interest, and incidental expenses, at the first session, \$782 29 cents, leaving a balance in the hands of the Treasurer, of \$2950 83 cents, to be applied in part payment of the expenses of the present session of the Convention. The Pay Roll for the present session, not having been placed in the hands of the Treasurer, the committee have not been enabled to adjust the accounts of the expenditures of the present session, and therefore recommend the passage of the following resolves, which are respectfully submitted :

Resolved, That the Treasurer of this Convention be directed to account with the first Legislature of Maine, for the balance of money remaining in his hands, after defraying the appropriations made by this Convention.

Resolved, That the Treasurer be allowed, as compensation for his services, the one half of one per centum on all monies paid out by him, under the direction of the Convention.

Which report and resolutions were severally read and accepted.

Gen. Irish, chairman of the committee on the Pay Roll, made a report, by which it appeared that the amount of travel and attendance due the several members the present session, amounted in the whole to the sum of \$4216, which was read, and ordered that the Treasurer of this Convention be authorised to pay the several persons borne on the Pay Roll, the sums set against their names respectively.

Mr. Moody, of Hallowell, chairman of the committee to whom was referred the resolutions submitted yesterday by the Hon. Judge Thacher, reported the following resolution as taken into a new draft :—

Resolved, That the President of this Convention cause to be transmitted to the Supreme Executive of the Commonwealth of Massachusetts, one attested manuscript copy of the Constitution of the State of Maine, and of the reports of the committee appointed to examine the returns of the votes of the several

towns and plantations upon the question of the adoption of the constitution. and also an attested manuscript copy of the proceedings of this Convention, which resolution was read and accepted.

The Hon. Judge Thacher read in his place the following resolution :—

Resolved, That the thanks of this Convention be presented to the Hon. WILLIAM KING, for the dignified and impartial manner in which he has discharged the duties of the chair during our deliberations—which resolution was again read by the Secretary, and unanimously adopted.

The Hon. President then made the following reply :—

“Gentlemen of the Convention,

“For the sentiments which you have expressed I feel particularly grateful ; they come I perceive from an old and respected friend, from whom political considerations have perhaps too long separated me—my friend on this occasion does not remember them ; they are therefore erased from my recollection forever.

“The constitution, gentlemen, which you presented with so much unanimity to our fellow citizens, an unexampled majority have adopted. Your business has therefore now terminated ; to the public it has been most useful, to yourselves most honorable—being now enrolled as the fathers of the constitution.

“Permit me, gentlemen, to hope that the constitution with which God has been pleased through you to bless us, may long preserve the liberties and promote the happiness of all our fellow citizens, and that for your services you may not only receive the respect of the virtuous of your own times, but the regard of posterity.”

The business of the Convention having been gone through—on motion of the Hon. Judge Cony—*Voted*, that the Convention adjourn without day.

Adjourned accordingly.

1934, which was the first year that the
company had ever been in the United States.
The company had been in the United States
for many years, but it was not until 1934
that it was able to establish a permanent
presence in the United States. The company
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APPENDIX.

THE following papers are designed to illustrate the origin and progress of the long agitated question of the Separation of Maine, which have become more interesting since that event has taken place. It was intended to include every document "of pith and moment" relating to this subject, which could be collected ; but they were found to be so bulky that it would have swelled the book to an inconvenient size, and indeed are sufficient for a volume of themselves. Of course, it became necessary to make a selection of such as were deemed most valuable and interesting, especially those of an earlier date. These, to most of the present inhabitants of the State, must be new and curious, as they exhibit the different views that have been taken of this question at different and distant periods. Thirty-five years have elapsed since it was first started ; during the whole of which time, there was no long intermission of attempts to bring it about. The transactions of a recent date are more within recollection, or their records accessible ; and it is therefore of less consequence to preserve them, than those which were sliding into oblivion.

The first of these papers is an account of the two earliest Conventions which were held in Maine on the subject of Separation. It is extracted from the "*Collections of the Massachusetts Historical Society*," vol.4. page 25 *et. seq.* and although the author's name does not appear, his authority is doubtless to be relied on, or it would not have obtained a place in those collections. Notwithstanding the subject died away, after these unsuccessful efforts, with the expiration of the Convention in 1787 or 8, it appears again to have been revived, so early as 1791, when memorials were gotten up and presented to the Legislature in the winter session of 1792. The question was there considered a very serious one, and ended in a recommendation to the people of Maine to vote on the subject at their town meetings in May ensuing—when they decided against it. It was not however, suffered long to sleep, as will be seen by the documents relating to the Conventions held at Portland in 1793 and 1794, which were among the papers of the late Judge DUMMER,

who was Secretary of the last mentioned Convention, the proceedings of which, it is believed, have never before been published. This Convention, it appears, was adjourned from June to October, and from October to June 28th, 1795, when an "Address" was prepared and signed by "WILLIAM GORHAM, President," and attested by "SALMON CHASE, Secretary, *pro tem. in the absence of Mr. Dummer*," which makes a pamphlet of 31 pages. They therein request the people to "consider the subject at their annual meeting in April next," and adjourned to receive the votes. What was the issue of this request or the adjourned meeting, we have no records to shew. Many subsequent trials were made to effect a separation, prior to the Brunswick Convention in 1816; but they all proved abortive, until the late experiment, which has been made at a most favorable period—the effects of which will be such, we sincerely hope, as to dispel the apprehensions of the most cautious, and realize the anticipations of the most sanguine.

The proceedings of two Conventions, held at Portland, to consider the expediency of a separate Government in the District of Maine.

[Collected from the original Files and Records.]

From the latter part of the year 1784, to the autumn of 1785, a separation of the territory east of Pascataqua river, from the government of Massachusetts, was a general topic of conversation among the inhabitants. During this time, the Falmouth Gazette, then the only newspaper that was published in the District of Maine, was crowded with addresses to the people upon the subject. Clergymen, physicians, lawyers, and farmers, seemed engaged in accelerating the event. They all employed both their pens and their private influence, in convincing their fellow citizens of the propriety and advantages of becoming a distinct member of the Union.

At the time I now speak of, there were also a number of respectable opposers of this measure. These, generally speaking, were either those gentlemen who were concerned in trade, and feared an interruption in their commercial connexions, or such as held offices under the government, and feared the consequences of a new appointment. In this, as in most other cases of political experiment, the opinion of each party was decided by a prospect of their own, rather than the public interest. To this, however, there were doubtless some exceptions. It is difficult to discover the secret motives by which mankind are actuated :

but from a personal acquaintance with the views and principles of the leaders upon both sides of the question, I think I may be excused in saying, that they were both in some degree influenced by a prospect of private advantage.

When the subject first came before the public, the great body of the people seemed to be indifferent as to the event ; and although they afterwards became more interested, they never exceeded the bounds of *moderate zeal*. They were under no oppression. Many inconveniences, arising from their remote situation from the seat of government, might doubtless have been removed by a well-administered government of their own. But to bring them into the measure upon this ground, there was not a single material to work with, but *reason*, and the dispassionate application of it to their particular circumstances. What was the probability of success from the use of this, I leave to the judgment of those who are best acquainted with the instruments by which the uninformed are commonly governed.

I shall not attempt to collect the arguments which were addressed to the people, by those who wrote in the Falmouth Gazette ; because, to exhibit a complete view of them would require a lengthy discussion, and because I shall have occasion to mention the substance of them among the doings of the Convention, which were collected and published under the title of "grievances."

After the subject had been lengthily and thoroughly examined, in public and in private, it became necessary to devise and adopt some plan, which, when put in operation, would bring the business to a point. With respect to this, there was some diversity of opinion. Individuals were averse to any active step, lest they should be considered as officious. The great extent of the district rendered it extremely difficult to put the people in motion, in any regular and orderly method. At length a number of persons signed a paper, and gave it to the printers of the Falmouth Gazette, requesting them to publish a notification to the inhabitants of the district, to meet at Falmouth, for the purpose of holding a conference upon the proposed separation. This notification was accordingly published in the above mentioned Gazette of the 17th of September and 1st of October, 1785, and is in the following words. "Agreeable to a request made and signed by a large and respectable number of persons to the printers of this Gazette, the inhabitants of the three counties of York, Cumberland and Lincoln, are hereby notified, that so ma-

ny of them as are inclined, or can conveniently attend, are requested to meet at the meeting house of the Rev. Messrs. Smith and Deane, in Falmouth, on Wednesday the fifth day of October next, to join in a CONFERENCE, then and there to be held, on the proposal of having the said counties erected into a SEPARATE GOVERNMENT ; and if it should be thought best, to form some plan for collecting the sentiments of the people on the subject, and pursue some orderly and regular method of carrying the same into effect."

In consequence of this publication, about *thirty persons* from the town of Falmouth and its vicinity convened at the time and place therein appointed. They entered upon the discussion of their business ; the result of which was, that a circular letter should be printed, signed, and forwarded by a committee to the several towns and plantations in the district, requesting them to send delegates to meet in a Convention to be held at the time, place, and for the purpose mentioned in the circular letter ; the copy of which (with the names of the committee) may be seen in the appendix, No. I.

In this manner the first Convention for considering this important subject, was brought together. When we consider the difficulty and hazard which commonly attended the assembling of bodies of people, for the avowed purpose of determining upon the expediency of withdrawing themselves from the government they are under, we must admit that the method adopted in this instance was very unexceptionable. There was an open application to the people, to attend, or not attend the proposed conference, as they saw fit. There were no insinuations, in any manner, propagated to the prejudice of the existing government ; but on the contrary, every step was proposed to be taken in an "orderly and peaceable manner ;" and their right to assemble in this manner, they considered as founded on the first clause of the nineteenth article of the bill of rights. Under these impressions, the Convention proceeded to organize themselves. They accordingly made choice of the Hon. William Gorham, Esq, for their President, and Stephen Longfellow, jun.* for their clerk. They then voted to choose a committee to examine the returns of the delegates, who reported that the following gentlemen were duly returned, viz.

COUNTY OF YORK.

Wells, John Storer, Esq. ; Buxton, Samuel Knight, Nathaniel Hill ; Brownfield, Henry Young Brown, Samuel Haywood ;

• Judge Longfellow, of Gorham.

Fryeburg, Joseph Fry, Esq Paul Langdon, Daniel Fessenden,
Isaac Walker, Nathaniel Merrill.

COUNTY OF CUMBERLAND.

Falmouth, Peleg Wadsworth, Stephen Hall, Samuel Freeman,
John Waite, Enoch Ilsey, Esq's; *Scarborough*, William
Thompson, Esq.; *Gorham* Edmund Phinney, William Gorham,
Stephen Longfellow, jun.; *Cape Elizabeth*, James Leach; *New-*
Gloucester, John Merrill; *Gray*, Jedediah Cobb.

COUNTY OF LINCOLN.

Georgetown, William Luhgow, Esq Daniel M'Fadden;
Topsham, Samuel Thompson, Esq.; *Newcastle*, Samuel Nich-
ols, Esq.; *Bristol*, William Jones, Esq.; *Hallowell*, Daniel
Coney; *Vassalborough*, Dennis Getchill; *Winslow*, Zimri
Haywood; *Winthrop*, Jonathan Whiting; *Pittstown*, Reuben
Colburn; *Lewiston*, Lemuel Cumings.

The only vote of any importance that was passed at this ses-
sion of the Convention was, that "a committee of nine be chos-
en to make out a statement of the grievances the three coun-
ties labour under, and also an estimate of the expense of a sepa-
rate government, and compare the same with the expense of the
government we are now under." The Convention was then ad-
journed for a day, in order to receive the report of this commit-
tee, which was completed, made and accepted, and together
with an addition to the report, is contained in the appendix,
No. II. This report was ordered to be printed, signed by the
president, and transmitted to the people, for the purposes men-
tioned in the vote, inserted in the above-mentioned paper at the
bottom of the list of grievances. The Convention was then ad-
journed to the first Wednesday of September following.

The original files and journals of this session contain nothing
more than what has been mentioned, that respects the general
subject. But it may not be amiss to mention some occurrences
relative to their mode of doing the business.

A motion was made by Mr. Thompson, of Scarborough, that
the mode of voting should be by towns. This motion did not
obtain; and the Convention voted that each delegate should
have a vote.

The town of Falmouth had made choice of the five gentle-
men whose names are mentioned in the list of delegates for that
town, and then adjourned their meeting to receive the report of
a committee which they had appointed to prepare their instruc-
tions. At this adjournment, the town reconsidered their vote

for the choice of delegates, dismissed the article and dissolved the meeting. But notwithstanding this, Stephen Hall, Esq. one of the delegates, took his seat in the Convention; and a vote was passed, that the other delegates from Falmouth had a right to a seat, and a committee was appointed to inform them that such was the opinion of the Convention.

There is also among the files of the Convention, a letter from the town of Northyarmouth, expressing their reasons for not joining in the choice of delegates, and for the unanimous opinion of that town against a separation.

There is likewise a letter on file from Daniel M'Fadden, one of the delegates for Georgetown, excusing himself from attending the Convention, and advising them to prepare, and offer to the people, the form of government which they proposed to recommend. He gives an opinion in this letter, that "a house of representatives would be sufficient to rule," saying, that "there might be as wise men in the house as in the chair, and that business might be done much quicker."

In consequence of the adjournment of the Convention to the first Wednesday of September, and the recommendation that a new delegation should take place, and meet at the same time, on the 6th of September 1786, there were *two* Conventions assembled at Falmouth. The difficulty which this occasioned, was removed by the first vote of the new Convention. After organizing themselves by the unanimous re-election of the president and clerk of the former Convention, a "coalescence" of the two was immediately voted. Being thus united, the returns of the new delegates were examined, and the following is the list of them:

COUNTY OF YORK

Berwick, Dr. Nathaniel Low; *Arundel*, Thomas Perkins; *Fryeburgh*, Moses Ames; *Brownfield*, *Henry Young Brown, Esq James Haywood.

COUNTY OF CUMBERLAND.

Portland, Peleg Wadsworth, Samuel Freeman, Stephen Hall, Daniel Davis, Stephen Codman; *Scarborough*, Joshua Fabyan, *Cape Elizabeth*, Barzilla Dellano, Cary M'Lellan, *James Leach; *Gorham*, *William Gorham, President, *Edmund Phinney, *Stephen Longfellow, jun. Clerk; *Standish*, Seth Spring; *New-Gloucester*, *John Merrill; *Gray*, *Jedediah Cobb; *Brunswick*, Aaron Hinckley.

COUNTY OF LINCOLN.

Hancock, John Philbrook; *Vassalborough*, *Dennis Getchell;

Winslow, *Zimri Haywood ; *Topsham*, *Samuel Thompson ; *Bristol*, *William Jones ; *Newcastle*, *Samuel Nichols ; *Hallowell*, *Daniel Coney ; *Bath*, Dummer Sewall ; *Pittston*, *Reuben Coburn ; *Winthrop*, Joshua Bean.

*Members of the former Convention.

The business transacted by this Convention, which was only two days in session, brought the subject to a considerable degree of forwardness. They voted, that " In the opinion of this Convention, the counties of York, Cumberland, and Lincoln, labour under grievances."

" That it is the opinion of this Convention, the grievances stated by the former Convention (except the fifth article) are real grievances, that the counties of York, Cumberland, and Lincoln now labour under."

" That a committee of nine be appointed, to consider what further grievances said counties labour under "

The report of this committee does not at all comport with the nature of their commission. As to the additional list of grievances, which they were appointed to exhibit, the report merely states that there were such, which demanded the serious attention of the Convention ; but that they could not at that time "*undertake to enumerate the multiplicity of them ;*" and, upon the whole, referred the Convention to the list formerly published.

But they proceeded to say, " that in justice to their constituents, they esteemed it their duty to inform the Convention, that they could not devise any mode which would substantially and effectually remove the evils complained of, except the citizens of said counties were invested with the privilege of legislating for themselves." And they further gave it as their opinion, that " the Convention should draught a petition to the General Court, requesting their consent, that the said counties should be erected into a separate government ; and that the same, accompanied with an address to the people upon the subject, should be transmitted to the inhabitants of the several towns and plantations for their consideration."

This report was readily accepted ; and a committee was thereupon chosen to draw up the address to the people, and the petition to the General Court, which was therein recommended. This address and petition are in the Appendix, No. III. They were accepted by the Convention, and ordered to be printed, together with the list of grievances stated by the former Conven-

tion, to be signed by the president, and forwarded to the people. The Convention was then adjourned to the last Wednesday of January then ensuing.

At the arrival of this period, the business had assumed a very serious aspect; the cause of which I will explain, after stating the returns from the towns and plantations upon the question of a separation. It will be noticed, that in the address to the people, the Convention had requested the clerks of the towns and plantations "to be particular in making" returns of the number of voters, for and against a separation." In compliance with this request, of ninety-three towns and plantations, thirty-two only made returns. Eight of the ninety-three chose delegates, but made no returns; fifty-three, therefore, were not represented in any manner. Of the thirty-two towns and plantations which made returns, thirty-four were in favour of, and eight against, a separation. The plantation of Wales (now incorporated by the name of Monmouth) sent their returns after the Convention was adjourned. The number of votes from this plantation were twenty seven, and were unanimous in favour of a separation. The whole number of votes returned was nine hundred and seventy, of which six hundred and eighteen were in the affirmative.

The Convention now proceeded to discuss the only question of any importance that could come before them, which was, whether the petition, the form of which had been proposed to the people, "*shall now be presented to the Legislature?*" A vote had been passed, "that as there has been a number of respectable towns in the counties of York, Cumberland, and Lincoln, that have not certified to this Convention their determination of a separate state, and as the Commonwealth in general is at this time in a perplexed state, and this Convention being unwilling to do any thing that shall seem to lay any greater burthen on the General Court; therefore it is the opinion of this Convention to postpone petitioning for a separation at present. There was a motion for the reconsideration of this vote, the discussion of which was lengthy, interesting and spirited, the cause of which I will now proceed to explain.

The distress which every part of the government was at this time involved in, by the scarcity of money and the public burthens, was felt in these counties in a degree equal to any part of the Commonwealth. The people were not merely depressed, they were become possessed of that kind of sulien obstinacy

which is sometimes the result of despair. In this situation, ignorant of the real cause of their sufferings, and judging of the cause by the effect, they would have thrown off the yoke of any government without remorse. It was at this time that the different sentiments, by which the members of the Convention were actuated, might easily be discovered. Some of them, in the language of genuine insurgents, did not hesitate to speak of the senate and attorney-general as grievances. It was evident from the declarations of others, corroborated by their private circumstances, that paper money and tender acts were their objects. The deplorable situation of the government, then in a state of civil war, had no influence on the minds of those who were infested with these sentiments. When this situation was dwelt upon by the friends of government in the Convention, they were answered, that "now is the golden opportunity;" the meaning of which evidently was, however cruel and unnatural it may seem, that "the legislature are now distracted with care and trouble; if we apply to them at this time, they will not dare to refuse our request; and if they do, we can drive them into a compliance, by threatening to join in the insurrection." When this disposition to perplex the government was, in a pointed and severe manner, reprobated by one of the Portland delegates, he was told that he was "out of his senses."

But notwithstanding these unfavourable appearances, it is but just to observe, that some of the principal promoters of a separation were men of judgment and moderation, and manifested their disapprobation of the petitions being then presented to the legislature, and voted accordingly. But the vote for the delay in presenting the petition was reconsidered by a majority of 15 to 18, and it was accordingly put into the hands of a committee, with discretionary power to retain it, or present it to the General Court then in session, as they saw fit.

The feelings of the people had now become interested in the doings of the Convention. It was the opinion of many judicious men, that the expectations of relief, which they had formed from this quarter, were the principal cause of their quietness, during the troubles in the west of the Commonwealth. It is certain they exclaimed loudly against the government; and I have no doubt but might readily have been stimulated to acts of violence. Those towns which were most dissatisfied, were most regular in the choice of delegates; and it is natural to suppose, that when these delegates returned to their constituents, they flatter-

ed them with hopes of relief from a government of their own. These hopes, to be sure, must have been delusive to the last degree, if a *speedy* removal of their burthens was the object of the people. If, therefore, this Convention was the means of preventing an insurrection in this part of the country, it is an additional proof that good often comes out of evil. Upon the whole, I am inclined to believe that it was. For, without meaning to derogate from the majesty of the people, I may be excused in saying, that they are often led by appearance, rather than reality ; and that, for this reason, they are sometimes deceived and imposed upon by those whom they depute for their servants, especially in matters of opinion. It might, therefore, be very easy to persuade them, that a Convention (the very name of which is a consolation to the discontented multitude) possessed both the disposition and the power to administer the requisite assistance.

From the 31st of January, 1787, the Convention was adjourned to the 5th of September following. Another attempt was then made to collect the sentiments of the people. A vote was passed, appointing a committee to prepare an "address and subscription paper," which was to be forwarded to the people, informing them of the state of the petition (which had been presented to the legislature); and requesting them to "sign for or against a separation." But there were never any returns of it, and from this time, the whole business, and the Convention itself gradually fell asleep. There were five or six other adjournments ; but no business was done, and none of the members attended, except the president and clerk, and the members for Portland. At the last of these adjournments, there were only three of the Portland members present. One of them was chosen president pro tempore, another clerk ; the third made a motion for an adjournment ; but as there was no one present but the president and clerk to second the motion, the Convention expired, not only without a groan, but without a single mourner to weep over its remains !

APPENDIX.—No. I.

At a meeting of a number of respectable inhabitants of the counties of York, Cumberland, and Lincoln, at Messrs. Smith and Deane's meeting house, in Falmouth, on the fifth of October instant—agreeably to a notification published in the Fal-

mouth Gazette, of September 17th, and 1st October, instant, in order to form some plan for collecting the sentiments of said inhabitants, on the subject of said counties being formed into a separate state :

Voted, That the subscribers be a committee to apply to the several towns and plantations in said counties, requesting them to send delegates to meet at said meeting-house, on the first Wednesday of January next, at ten o'clock, A. M. to consider the expediency of said counties being formed into a separate state ; and if, after mature consideration, it should appear to them expedient, to pursue some regular and orderly method of carrying the same into effect."

Pursuant to the above vote, we the committee aforesaid, hereby request the inhabitants of ———, to choose a delegate or delegates, to meet at the time and place above-mentioned, for the purpose aforesaid.

PELEG WADSWORTH, *Chairman*.

STEPHEN LONGFELLOW, JUN.

WILLIAM GORHAM,

STEPHEN HALL,

JEREMIAH HILL,

JOSHUA FABIAN,

HENRY Y. BROWN,

Falmouth, October 15th, 1785.

To the inhabitants of

No. II.

At a Convention of delegates from a number of towns in the counties of York, Cumberland, and Lincoln, held at Falmouth, on the first Wednesday of January, 1786 :—The Hon. William Gorham, Esq. was chosen President, Mr. Stephen Longfellow, jun. Clerk.

It was then *voted*, that a committee of nine be chosen to state the grievances, which the three counties of York, Cumberland, and Lincoln labour under, as connected with the other counties in the Commonwealth of Massachusetts, from which they are separated by the intervention of the state of New-Hampshire ; and also to form an estimate of the expense of a separate government, and compare the same with the expense of the government they are now under—who reported as follows :—

That from their local situation, their interests are different ; and consequently cannot be fully understood, particularly attended to and promoted in their present connexion ; whereby

their growth and importance are prevented, which retards that of the United States.

That the General Court of the Commonwealth of Massachusetts being so large, and their business so various and perplexing, unavoidably renders it inconvenient and expensive to the inhabitants of those counties, both with regard to their members at court, and suitors for justice.

That applications to the supreme executive authority, being frequently necessary, are attended with great expense ; to the injury and prejudice of the inhabitants of those counties.

That the business of the Supreme Judicial Court, from the extent of territories, is so great as renders a proper arrangement in that department exceedingly difficult : and to repair to their office at Boston is very expensive.

That the present regulations of trade operate unequally, and against those counties, by reducing the price of lumber, which is detrimental to those that are employed in making the same ; while they tend to the emolument of many in the other part of the Commonwealth.

That we consider it as a matter of grievance that a considerable part of the inhabitants of these counties are deprived of a vote in the House of Representatives, where all money bills originate ; and there appears to be no prospect of a speedy relief.

That the present mode of taxation, by polls and estates, is very injurious to this territory, as the inhabitants cannot be employed to the same advantage, and their stocks are not so profitable ; neither can their lands be so advantageously improved, as in the other part of the Commonwealth, where they enjoy a milder climate.

That the excise and impost acts operate grievously on the inhabitants of those counties, as they have not in general the advantage of orchards ; and the keeping of sheep is difficult and expensive, by the hazard from wolves and other beasts of prey, and the great length of their winters.

That the act imposing a duty on deeds, &c. operates unequally, by reason of the more frequent conveyances of real property in a new than in old settled countries.

That the necessary attendance upon the state treasury is inconvenient, expensive and grievous.

The committee have taken a view of the several constitutions of the United States ; and from some calculations they have

made, are of opinion that a separate government may be adopted, whereby a very considerable part of the expense, now paid by these counties, may be saved :—But not knowing what form of government the people in said counties would choose, in case of a separation, they have not thought proper to report any estimate thereon

Voted. To subjoin the following to the report of the above committee.

As a full representation is supposed to be the most likely way to obtain a redress of grievances, we hope the several towns in these counties will pay that attention which our peculiar circumstances require, by a general choice of members to represent them in General Court the next year.

Voted, That the report of the above committee, with what is subjoined thereto, be signed by the president of this Convention, and transmitted to the several towns and plantations in the counties of York, Cumberland, and Lincoln, requesting them to choose a delegate or delegates, at their annual meeting in March next, or at such other meeting as they shall think proper, to meet in Convention on the first Wednesday of September next, at the meeting house in the first parish of Falmouth, at ten o'clock, A. M. to consider of the grievances the inhabitants of said counties labour under ; and to adopt and pursue some orderly and peaceable measure to obtain relief ; and also requesting said inhabitants to certify to said Convention the number of voters for and against said choice of delegates.

WILLIAM GORHAM; *President.*

No. III.

Proceedings of the Convention held at Portland, September 6th, 1786.

At a Convention of delegates from a number of towns and plantations, in the three counties of York, Cumberland, and Lincoln, held at Portland, on Wednesday the 6th day of September 1786—for the purpose of considering the grievances which the inhabitants of said counties labour under, and adopting some orderly and peaceable measure to obtain relief.—Hon. William Gorham, E-q. being first chosen president, and Mr. Stephen Longtellow, jr Clerk.

Voted, That the following address and form of a petition therein referred to, be transmitted to the several towns and plantations in the said three counties, as soon as may be.

Friends and Brethren,

Agreeably to the duties of our appointment, we have taken into serious consideration the grievances that the inhabitants of these three counties labour under; and, after a close attention to this important subject, are clearly of opinion, that they cannot be remedied in their present connexion with the other part of the Commonwealth. Our local situation, the nature of our commerce, and the jarring of our interests, render it necessary, in order to an effectual removal of them, that we should be erected into an independent state,

The expediency of this measure has engaged the attention of the public for a long time—it has been considered, as it undoubtedly ought to be, a subject of the greatest importance. Two Conventions have had it before them, and have carefully attended to the arguments which have been offered on both sides of the question.

We now communicate to you the result of our present deliberations; and we submit it to your wise and prudent consideration.

You feel yourselves distressed, and your distresses will increase until you legislate for yourselves.—In this there is no great difficulty. Government is a very simple, easy thing. Mysteries in politicks are mere absurdities—invented entirely to gratify the ambition of princes and designing men—to aggrandize those who govern, at the expense of those who are governed.

But the end of government is the good of the people—the only design of its institution is to secure to them, as far as possible, the blessings of life. We therefore, in justice to our constituents, to ourselves, to the good citizens of the three counties, and of the Commonwealth at large, address you upon the subject; and transmit to you a form of a petition to the General Court, requesting them to relinquish all right of jurisdiction in this eastern territory; and to give their consent that the same may be formed into a separate state.

And we do earnestly call upon every free citizen within the said counties, to take the same into his most serious consideration; and each one, for himself, give his vote for or against a separation.

And we also desire each town and plantation within the said counties, to meet for the purpose; and transmit their doings to this Convention, at their adjournment.

Voted, That those towns and plantations that have not cho-

sen, he desired to choose delegates to attend at, or send their votes to this Convention, at the adjournment; otherwise they will be considered as acquiescing in the doings of their brethren.—It is earnestly recommended to the selectmen of towns, and committees of plantations, to notify public meetings for the purpose; and to the clerks of the several towns and plantations, that they be particular in making returns of the number of voters, for and against a separation.

FORM OF THE PETITION.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts, in General Court assembled.

THE petition of the inhabitants of the towns and plantations of the counties of York, Cumberland, and Lincoln, by their delegates, met in Convention, at Portland, the day of humbly sheweth—that the inhabitants of said counties, previous to the late revolution, considered themselves a part of the government of Massachusetts; and, at the formation of the present constitution, they either approved of, or submitted to the same, and have cheerfully joined in support of government, and have paid due obedience to the laws thereof; and at the present time they feel most sensibly, the difficulties in common to the various parts of the Commonwealth, and are ready to exert themselves to the utmost of their power, to remove them, by paying their taxes, and supporting good order, and the laws of the government; but when they take a view of the political disadvantages they labour under, peculiar to their local situation, being separated from the other part of the government by the intervention of another state, as well as their great distance from the seat of government, they look upon it a duty they owe themselves and their brethren in the other part of the state, and to the United States in general, in a peaceful and dutiful manner, and agreeably to the constitution, to lay them before the honorable Court, and request that they would relinquish all right of jurisdiction over said counties and consent that they may be formed into a separate government, as they apprehend this the only adequate remedy to the difficulties complained of.

And while they are taking this peaceful measure to obtain a redress of their great political evils, by asking for a separation from the other part of the Commonwealth, they do not entertain an idea of throwing off the weight of the public debt, at this time lying upon the government at large, or to prevent the other

part of the Commonwealth from having their just proportion of the unappropriated lands; but, like friends and brethren, most ardently wish to have all matters adjusted upon the broadest basis of equity and fair dealing.

Therefore your petitioners humbly pray, that your honours would take their circumstances into your wise consideration, and adopt such measures as you in your wisdom may think fit; and they, as in duty bound, will ever pray.

Proceedings of two Conventions on the subject of Separation in 1793 and 1794.

At a meeting of a number of gentlemen from various parts of the District of Maine, holden at the court-house in Portland, October 18th, 1793, in consequence of a printed notification in the words following, viz:—

“NOTICE.

“As the time of revising the constitution of this Commonwealth is fast approaching, and as it seems the general opinion that a separation of Maine must then take place; it is earnestly requested that as many gentlemen as conveniently can, will attend at the court-house to-morrow evening, at six o'clock, to consider and adopt such measures as shall appear most expedient to effect the above-mentioned important object.

Thursday, October 17th, 1793.

The Honorable PELEG WADSWORTH, Esq. was chosen *Chairman*, and SAMUEL FREEMAN, Esq. *Clerk*.

Voted, 1. As the opinion of this meeting, that the time of revising the constitution of the Commonwealth, will be a proper time for erecting the five eastern counties into an independent government.

Voted, 2. That as that time is fast approaching, and as it is probable the sentiments of the people may have differed from what they were when they were last collected, it is expedient that the sense of the people of the said five counties be again taken upon the subject.

Voted, 3. That the Hon. Peleg Wadsworth, Esq. Capt. John Baker, Samuel Freeman, Esq. Mr. James Deering, George Warren, Esq. Daniel Epes, Esq. William Widgery, Esq. Hon. William Gorham, Esq. Mr. Stephen Longfellow, Daniel Ilsley, Esq. Rev. Samuel Deane, D. D. Hon. David Mitchell, Esq. Daniel Davis, Esq. and Joseph Noyes, Esq. or the major part of them, be a committee to write to the selectmen of the several towns,

and the committees of the several plantations in said counties, requesting them to call a meeting for the choice of delegates, to meet in Convention at the court-house in Portland, on the last Tuesday of December next, at ten o'clock in the forenoon, to take this important matter under consideration ; and lay the result of their deliberations before their constituents.

Voted, 4. That Samuel Freeman, Esq. be a committee to apply to the justices of the court of general sessions of the peace for the county of Cumberland, for liberty to make use of the court-house for the foregoing purpose.

PELEG WADSWORTH, *Chairman*.

Attest—SAMUEL FREEMAN, *Clerk*.

PORTLAND, OCT. 21st, 1798.

Gentlemen,

As a number of gentlemen from various parts of the District of Maine, had occasion the last week to attend the court of common pleas and court of sessions of the peace then sitting in this town, it was thought proper to advertise a general meeting of all who could conveniently attend, to consider and adopt such measures as should appear most expedient to effect a separation of said District from the other part of the Commonwealth.

In consequence of such advertisement, a considerable number of gentlemen met at the court-house on Friday last, and passed the votes which we herewith send you.

Agreeably to the third vote, we do hereby request that you would call a meeting for the choice of delegates to form a Convention at the time and place, and for the purposes therein mentioned.

We flatter ourselves you will acquiesce in this proposal, as it is of importance to have the voice of all the people in the District ; and we hope by this step it will be fully obtained.

The time we have for a full discussion of this subject is short ; and this we presume will afford a good reason for adopting this plan ; and for removing any objections that might otherwise arise in the minds of any, as to the manner in which it originated—especially when it is considered, that in a matter of this kind there can be no rule for any particular mode of proceeding.

We are with respect, gentlemen, your most obedient, humble servants.

By order of the committee.

PELEG WADSWORTH, *Chairman*.

At a Convention of delegates from the following towns in the counties of York, Cumberland and Lincoln, viz. :

From *York*—Fryeburg, Brownfield and Waterborough ; *Cumberland*—Portland, Falmouth, Gorham and Hebron ; *Lincoln*—Georgetown, Hallowell, Bowdoin, Winthrop, Readfield, Monmouth, Mount Vernon and Winslow—

Appointed to take into consideration the expediency of erecting the five eastern counties, commonly called “the District of Maine,” into a separate government.

The towns in said counties not having generally appointed delegates for the purpose aforesaid, the delegates assembled as aforesaid, first took into consideration the expediency of entering on the business of their appointment ; and having contemplated the inclement season of the year, and other circumstances which may have prevented such appointments—having also received communications from several towns and other places which sent delegates, and considered what appeared to be the sentiments of the people in various parts of the District, determined to proceed to the consideration of the measure proposed.

They accordingly appointed Samuel Freeman, Esq. Clerk, and the Hon. Daniel Cony, Esq. Chairman of the Convention ; and then appointed a committee to consider of the matter, and report what was proper to be done ; whose report being made to the Convention, was read, amended and accepted, as follows, viz.

Resolved, That it be, and hereby is recommended to the several towns and plantations in the counties of York, Cumberland, and Lincoln, to choose delegates to meet in Convention at Portland, on the third Wednesday of June next, to take into consideration the expediency of erecting the said three counties of York, Cumberland and Lincoln into a separate government. The result of their deliberations to be laid before their constituents.

The Convention ground this resolution on the following reasons, viz.

1. That in the opinion of the Convention, the great extent of the five eastern counties has heretofore operated as an objection against the forming of the same into a separate State ; and it doth not appear that they are at this time, united in the measure.

2. That the counties of Hancock and Washington have manifested no inclination to separate themselves from the present government.

3. That in the opinion of the Convention, a majority of the inhabitants of Cumberland and Lincoln wish for a separation ;

and that they may be as well accommodated by a separation of the three counties, as of the five ; and those of the county of York, much better.

4. That the said three counties of York, Cumberland and Lincoln, are sufficiently extensive and populous for a distinct State, and more so than several of the States in the Union.

[*Dissentients*—Hon Josiah Thatcher, Esq Mr. Samuel Waldo, and Capt. Daniel Tucker.]

Voted, That the proceedings of the Convention be signed by the chairman, and attested by the clerk ; and printed copies thereof transmitted by the clerk to the selectmen of the several towns, and assessors, committees. or principal inhabitants of the several plantations, in the said three counties.

DANIEL CONY, *Chairman*.

Attest—SAMUEL FREEMAN, *Clerk*.

At a Convention of delegates convened at Portland, the third Wednesday of June 1794, the following members were returned :—

FROM YORK COUNTY.

Fryeburg, Moses Ames ; *Brownfield*, Henry Y. Brown ; *Biddeford*, Prentiss Mellen, Jeremiah Hill ; *Parsonsfeld*, Thomas Parsons ; *Sudbury Canada*, (Bethel) John York.

CUMBERLAND.

Falmouth, Nathaniel Wilson, John Quimby ; *Standish*, John Dean ; *Portland*, Thomas Motley, Salmon Chase, Col. James Lunt, William Symms, John Bagley ; *Gorham*, William Gorham, Edmund Phinney, George Lewis.

LINCOLN.

Hallowell, Nathaniel Dummer ; *Readfield*, John Hubbard ; *Winthrop*, Nathaniel Fairbanks ; *Green*, Benjamin Morrell ; *Georgetown*, John Rogers ; *Bowdoin*, Samuel Tibbet ; *Lewiston and Gore*, Joel Thompson ; *West-Pond*, Joel Richardson.

NATHANIEL DUMMER, Esq. was appointed Secretary, and WILLIAM GORHAM, Esq. President.

A committee of three from each county was appointed to take the subject matter of their meeting into consideration and report what was proper to be done. This committee consisted of Wm. Gorham, Nathaniel Dummer, Henry Y. Brown, Thomas Parsons, Prentiss Mellen, William Symms, Salmon Chase, John Hubbard and Nathaniel Fairbanks.

Adjourned to 10 o'clock to-morrow.

Thursday, June 19th, the Convention met according to adjournment, the committee reported progress and had leave to sit again, and the Convention adjourned.

Friday, June 20th, the committee made a report which was read and considered by paragraphs, and accepted ; and thereupon, ordered, that the address submitted by the committee be signed by the President and Secretary. It was then voted, that the statement and calculation made by the committee be referred to the adjournment—that 300 copies of the same be printed and forwarded to the towns and plantations with the address ; that a committee of three from each county be appointed to distribute them ; and Prentiss Mellen, Henry Y. Brown, Thomas Parsons, Wm. Gorham, Thomas Motley, John Dean, Nathaniel Dummer, Nathaniel Fairbanks and Benjamin Morrell were chosen—and William Symms, Esq. was appointed to superintend the printing.

Voted, That the thanks of the Convention be presented to the Episcopal Society for the use of their church.

The Convention then adjourned to the 2d Tuesday of October then next.

Address of the Convention assembled at Portland on the third Wednesday of June, 1794.

[CIRCULAR.]

To the inhabitants of the town of

PORTLAND, FRIDAY, JUNE 20, 1794. *

FELLOW CITIZENS,

The Convention which met at Portland in December last, having recommended to the towns, districts and plantations in the counties of York, Cumberland and Lincoln, to send delegates to meet in Convention at the same place, on the third Wednesday of June current for the purpose of considering the expediency of erecting the said counties into a separate State, fourteen towns and three plantations have accordingly met, and taken the subject into their consideration.

We find that it is not only the general opinion, but admits of no doubt, that a separation must sooner or later take place ; not only because the District is actually severed from the Commonwealth, by the intervention of another State, but by reason of many inconveniences that have increased to an almost intolerable degree.

We also find that even now it is probable that if a separation

should take place as soon as the same can be effected according to the constitution of the United States, we should not only be exempted from any new burdens or expenses, but should be relieved from many which we now bear, and reap many advantages, of which in the present state of things we are unavoidably deprived.

However, considering the subject before us as of the highest importance, and by no means to be lightly determined, we wish for all the information and assistance that we can derive from any quarter, more especially from a representation of the towns and plantations from which no delegates have yet arrived. We therefore earnestly request you to unite with us in discussing this interesting question, by sending a delegate or delegates to meet us at an adjournment, which we have deemed expedient, as well for this end, as that we ourselves may have leisure to ripen a report for the consideration of our constituents.

Having only the general good at heart, we have no doubt that we shall meet your feelings in this respect, and we trust that you will have no objection against joining in deliberations, the sole object of which, whatever may be their issue, will be to promote it.

By order of the Convention,

WILLIAM GORHAM, *President.*

NATHANIEL DUMMER, *Secretary.*

N. B. The Convention is adjourned to the second Tuesday of October, at 2 o'clock, P. M. to meet at Portland.

Extract of the report of a committee of nine members (three from each county) referred to the adjournment, but ordered to be printed and forwarded with the Address.

The amount necessary for the support of government, as appears by the Treasurer's report to the Legislature, in January last, is 30,122*l.* 13*s.* 4*d.* per annum. The proportion of this to be paid by the District of Maine, on the principles of the last valuation, will be about 5000*l.* An additional sum, not less, we presume, than 1200*l.* is remitted to the General Treasury, from this District, in duties of excise.—The sum total is 6,200*l.*

The proportion of public taxes on the principles of the last valuation, to be defrayed by the counties of Hancock and Washington, is to that which is to be defrayed by the counties of York, Cumberland and Lincoln, nearly as 16 to 140.

The probable expense of a new government, is calculated as follows:—

Governor's salary,	-	-	-	-	-	£300
Lieut. Governor's salary,	-	-	-	-	-	120
Secretary and Treasurer,	-	-	-	-	-	300
Clerks of ditto,	-	-	-	-	-	140
Judges of the Supreme Judicial Court,	-	-	-	-	-	850
Attorney General,	-	-	-	-	-	150
Legislative Department,	-	-	-	-	-	1500
Clerks of both Houses,	-	-	-	-	-	60
Messenger,	-	-	-	-	-	30
Contingencies,	-	-	-	-	-	1200

£4650

Sum now to be paid to Massachusetts, - £6200

Sum necessary to support a Government, - - 4650

Difference in favor of a new Government, - £1550

All which is submitted.

Attest,

NATHANIEL DUMMER, Sec'y.

Copy of a letter of the Hon. Daniel Cony to the Hon. John Adams, LL.D. late President of the United States.

SIR—The circular enclosed regards a subject which has several times, within forty years past, been brought before the public.

I have taken the liberty to transmit *this paper* to you with a few lines on the same subject.

Government being a contrivance of human wisdom to provide for human wants, permit me to ask, will a separate State government for Maine enable its inhabitants the better to provide for *their* wants?

The science of constituting a Commonwealth, of renovating it, or of reforming it, like other experimental science, practical in itself and intended for practical purposes, requires experience, and all the experience that man can gain in his whole life. It seems therefore desirable that advice should be resorted to, and if possible, obtained from those who have had the experience of a long life; and who have been justly renowned for their wisdom, their virtues, their moderation and distinguished public services, considering that *rights and theories*, physically

true, may prove morally and politically false, and upon so grave a question, "*Shall Maine separate from Massachusetts,*" I should feel peculiarly gratified to know your opinion.

There exists in the minds of the people here a well grounded confidence, in the event of a separation, that Maine will continue to reverence our civil and religious institutions, so long enjoyed. They will be so from choice, as well as upon the principle upon which nature teaches us to revere a man on account of his age and virtues, and on account of those from whom he was descended.

From the fostering care of Massachusetts, Maine though remote hath derived many advantages during a long connexion; but the period has arrived when the *public voice*, by a majority of votes in Maine; hath more than intimated an opinion, that a government established within the territory, amongst themselves, would be better able to consult and to promote the interests, the growth and the welfare of the State.

The census of 1790 was 96,540—of 1800 was 150,896—of 1810 was 228,705, and estimated 1820 will be 300,000.

Be pleased to excuse the trouble this may give you, and to accept friendly salutations from, Sir,

Your obedient and humble servant,

DANIEL CONY.

Augusta, Maine, Jan. 25, 1819.

P. S. My right arm and hand have become enfeebled, hope you will be able to read this. D. C.

The following is the Circular mentioned in the above letter:—

Augusta, December. 1818

At a meeting of a number of gentlemen citizens of this county, on notice to consider the ever interesting subject of erecting Maine into an independent State, the subscribers were appointed a committee to correspond with the members of the Legislature and others, supposed to be friendly to the measure, with a view to interchange opinions, and if practicable fix upon some time and mode to bring the question anew before the people and the Legislature.

We have therefore taken the liberty to address you and invite your attention to the subject. We have no hesitation in giving as our decided and deliberate opinion, that the best interests of Maine will be essentially promoted by giving it the control of its own energies.—But as to the time and manner of agitating the question, we wish to collect the sentiments of its friends throughout the District. Whether it will be expedient to petition the Legislature of the next political year, is deserving much consideration, and we are not, at this time prepared to give an opinion. Yet, if, on inquiry, such a

course shall be deemed most eligible, we can assure our friends that this section of the District will cordially co-operate.

We will thank you to ascertain, as far as is convenient, the public mind in your section of the country, and write the result to the chairman of this committee at Monmouth.

As the friends of the measure contemplate a general meeting in Boston during the winter, it is desirable, that your communication be received as soon as possible.

We are, with respect, your's &c.

JOHN CHANDLER,	TIM. BOUTELLE,
JAMES BRIDGE,	NATHAN CUTLER,
E. T. WARREN,	REUEL WILLIAMS,

Copy of a Letter from the late President ADAMS, to Hon. DANIEL CONY, dated Quincy, Feb 1st, 1819.

DEAR SIR—My right arm and hand have become so enfeebled that I am under the necessity of borrowing another to acknowledge the receipt of your obliging favor of January 25th.

The question you state to me is of so much importance, and the decision of it leads to consequences so extensive, that a volume might be written in favor of the affirmative, and another in favor of the negative. My forces are not competent to the composition of either.

My judgment, poor as it is, and my inclinations, strong as they are, are all on the side of union. I can see no public benefit to arise, on the contrary much public evil from that spirit of division, partition and separation which so unhappily prevails among our worthy fellow-citizens. It is to Massachusetts and her strenuous exertions that Maine is indebted for her preservation from the grasping clutches of Great-Britain.

But I can tell you how it will be when there arises in Maine a bold, daring, ardent genius, with talents capable of inspiring the people with his own enthusiasm and ambition. He will tear off Maine from Massachusetts and leave her in a state below mediocrity in the union. My advice therefore is to remain as you are as long as you can. Though I know that my advice will have no weight with one party or another, yet I will present my compliments to the worthy committee who have signed the circular letter, and advise them as they stand well to stand still.

I am, Sir, with much esteem your and their obliged friend
and humble servant,

JOHN ADAMS.

The Hon. DANIEL CONY, Augusta, Me.

ERRATA.

Page 48, *dele* last line.—Page 50, line 20, for 'title,' read 'little.'—Page 54, line 15, from bottom, after 'and,' insert 'that.'—Page 60, line 17 and 16 from bottom, *dele* 'those of Alna and,'—line 15 after 'New-Portland,' insert 'Anson'—line 14, after, 'Orland,' insert 'Lincolnville'—Page 61, line 17, *dele* 'in.'—Page 63, line 16 from bottom, after 'of' insert 'Delegates.'—Page 67, line 9, from bottom, for '106' read '105.'—Page 83, line 21, for 'merrily' read 'merely.'—Page 87, line 6, for 'save,' read 'serve'—line 26, for 'Berwick,' read 'Waterborough.'—Page 89, after line 26, insert, 'the motion passed'—Page 95, line 3, from bottom, for 'house,' read 'home.'—Page 99, line 16, for 'our,' read 'one'—Page 102, line 2 from bottom, for 'distinct' read 'district.'—Page 105, line 22, after 'would,' insert 'not.'—Page 108, line 14, for '3d,' read 2d.—Page 114, line 15 from bottom, for 'Convention,' read 'Constitution.'—Page 135, line 12, for 'that' read 'short.'—Page 139, lines 2 and 3, after 'Legislature,' insert 'at,' and *dele* 'these.'—Page 141, line 19, for 'seventy,' read 'twenty.'—Page 160, line 18, for 'confined,' read 'confided.'—Page 163, line 3, from bottom, for 'public,' read 'reply.'—Page 164, line 16, for 'he,' read 'the.'—Page 172, for 'apportionment,' read 'appointment.'—Page 173, line 8, for 'would,' read 'could.'—Page 176, after line 16, add 'this motion was lost.'—Page 184, line 25, for 'Lawson,' read 'Lamson.'—Page 185, line 25, for '*espirit*,' read '*esprit*.'—Page 187, line 14, for 'these' read 'there.'—Page 213, line 16, for 'in,' read 'A.'—Page 221, line 15 from bottom, for 'two,' read 'ten.'—Page 223, after the 4th line add, 'this and several other amendments were lost.'—Page 225, last line, for 'reported,' read 'departed.'—Page 228, lines 12 and 13, for 'resource,' read 'recourse.'—Page 237, line 5, from bottom, for 'beach' read 'back.'—Page 242, line 7, for 'even,' read 'were.'—Page 271, line 22, before 'a,' insert 'be.'—Page 254, line 22, for 'and,' read 'once.'—Page 255, line 12, for 'substitution,' read 'constitution.'—Page 262, line 10, before 'Accepted,' insert 'and he.'—Page 278, line 4, for 'June,' read 'January.'

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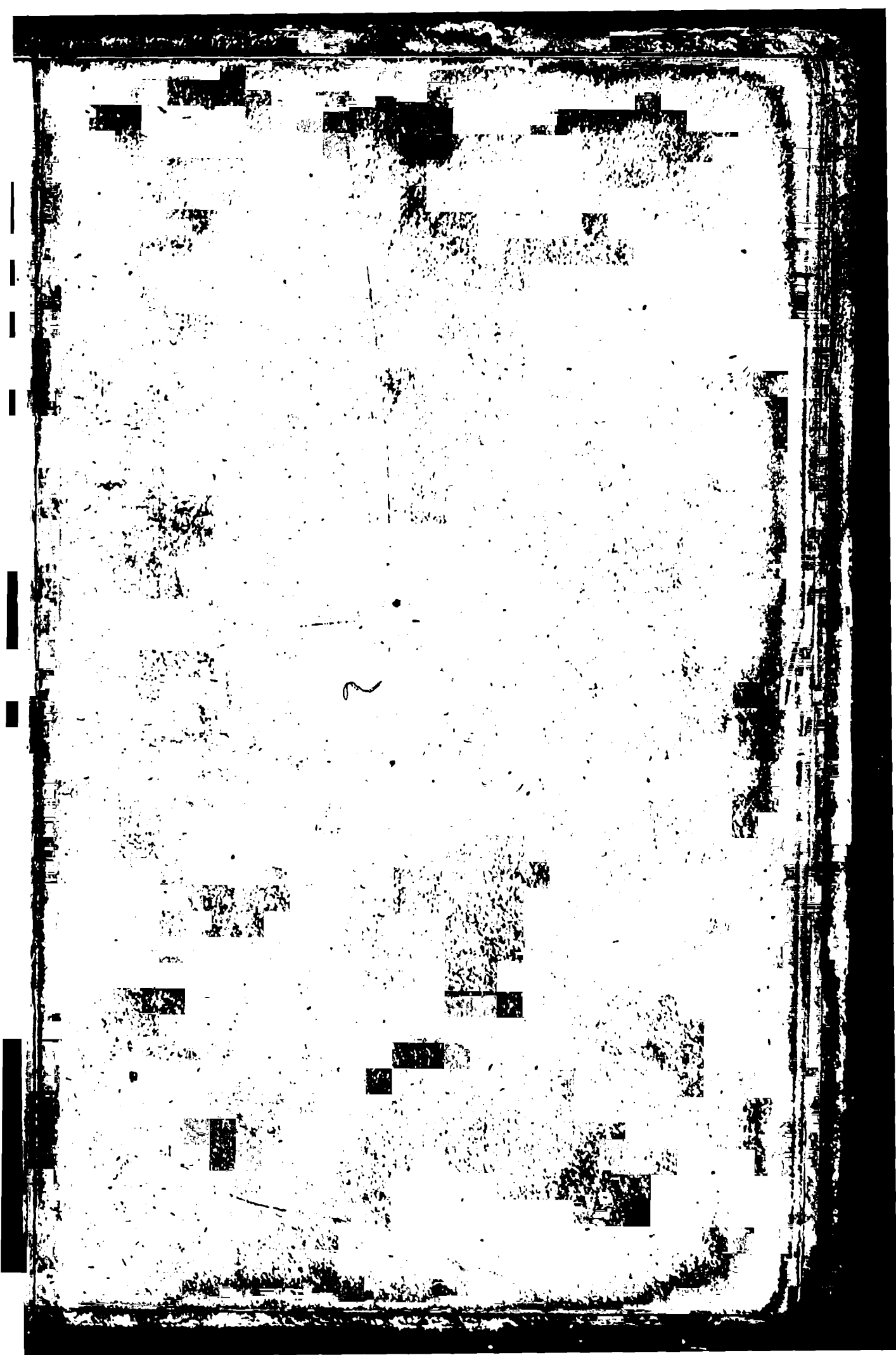
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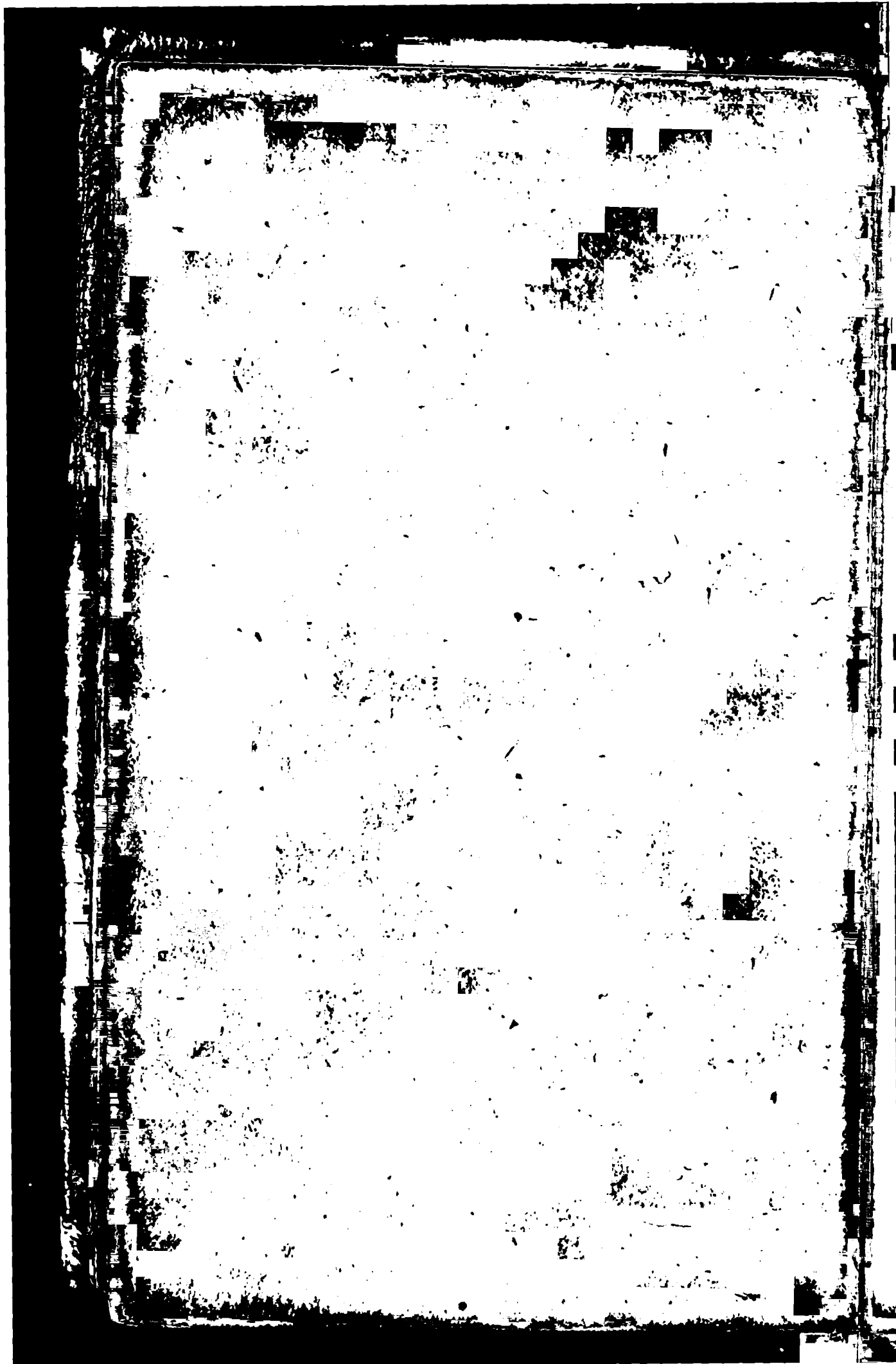
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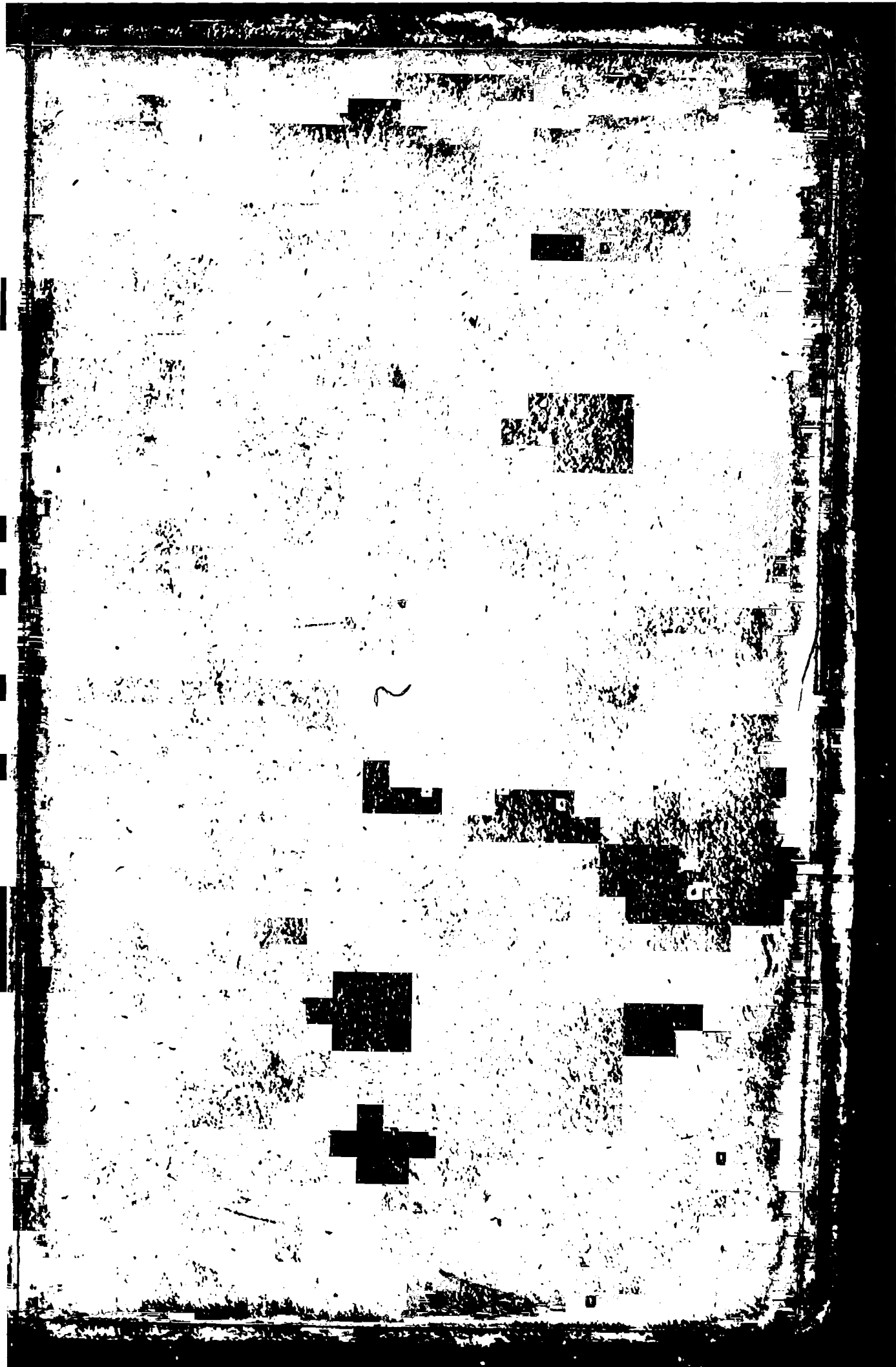
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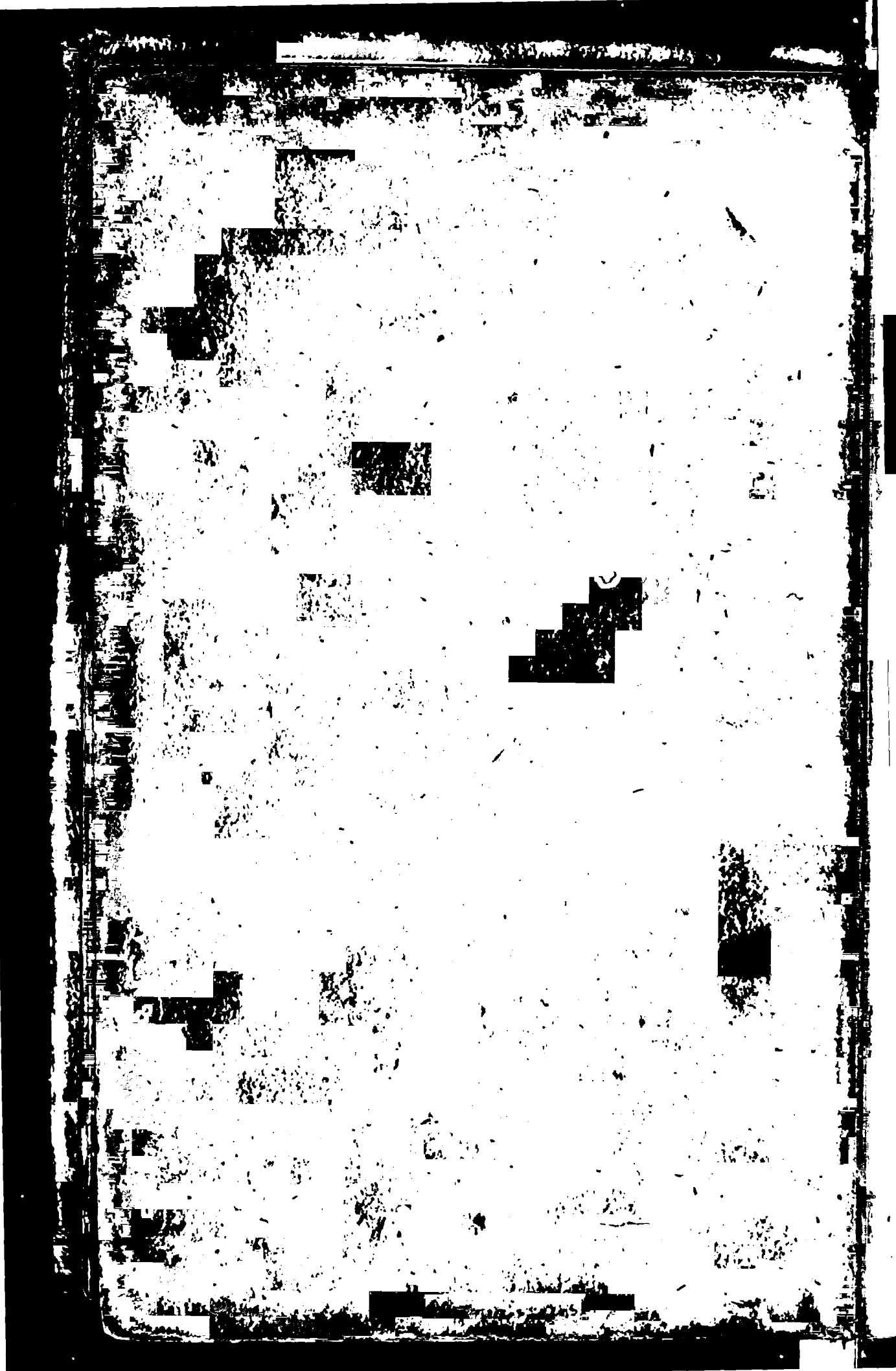
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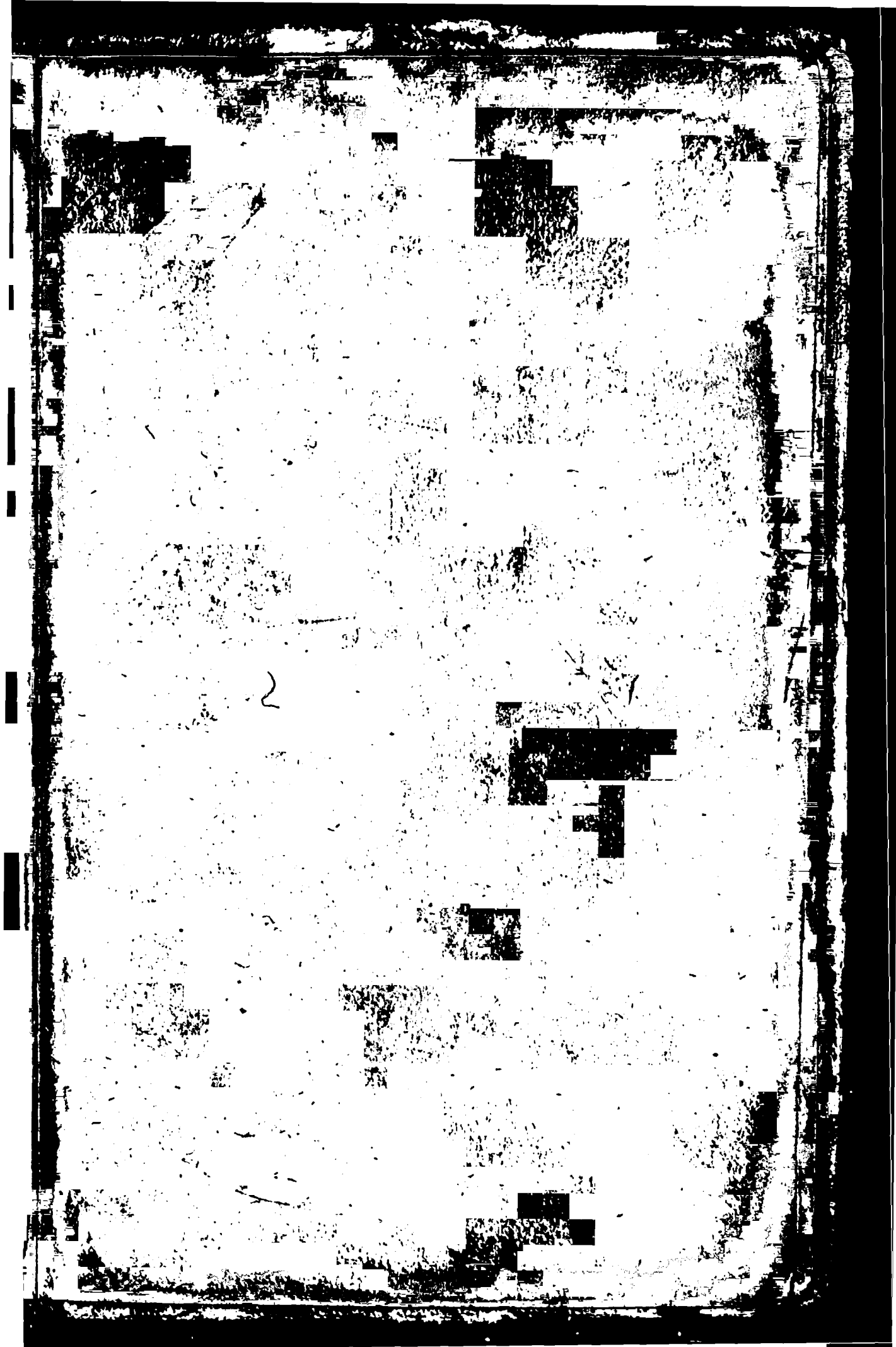
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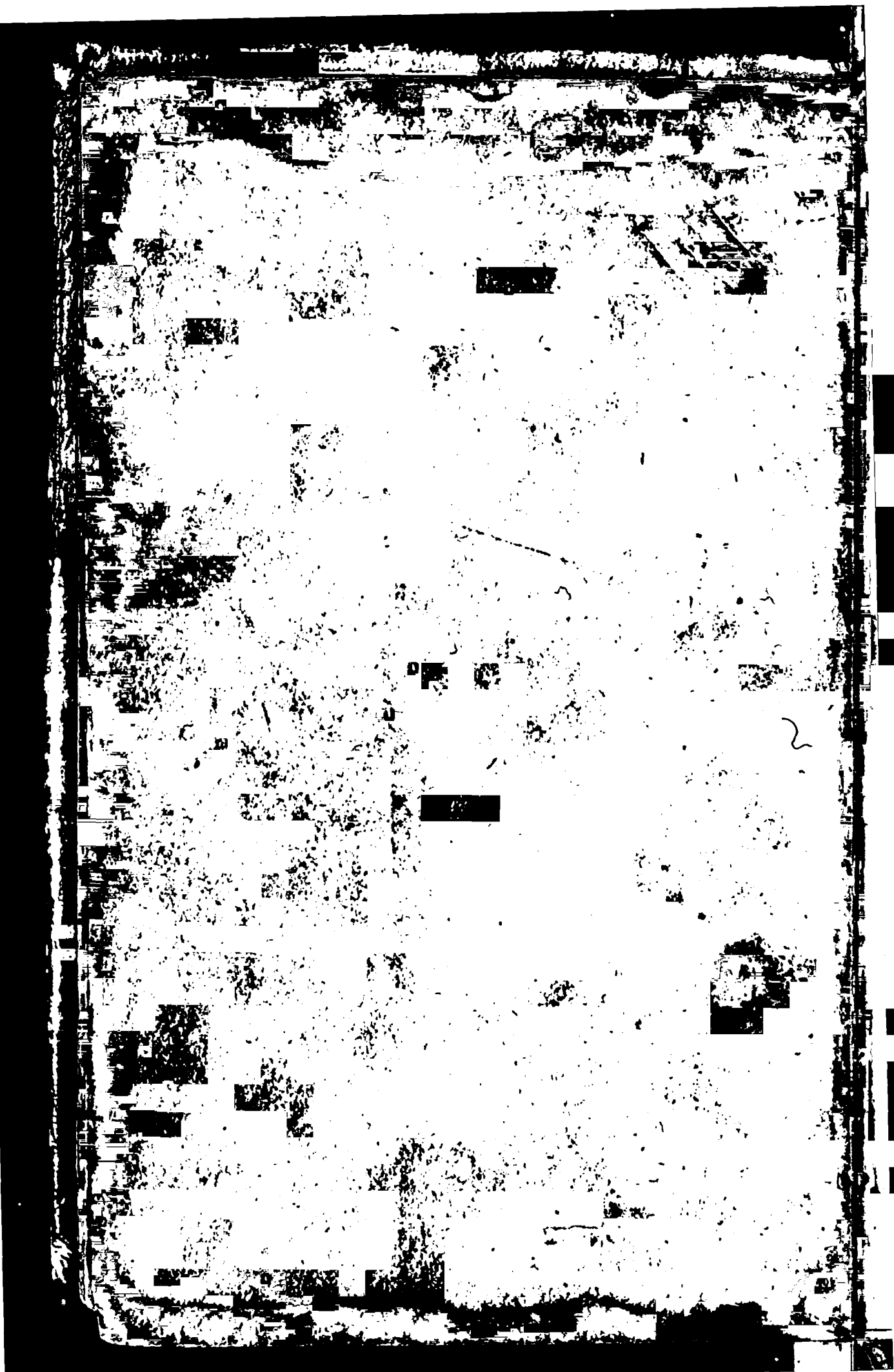












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