

MAINE STATE LEGISLATURE

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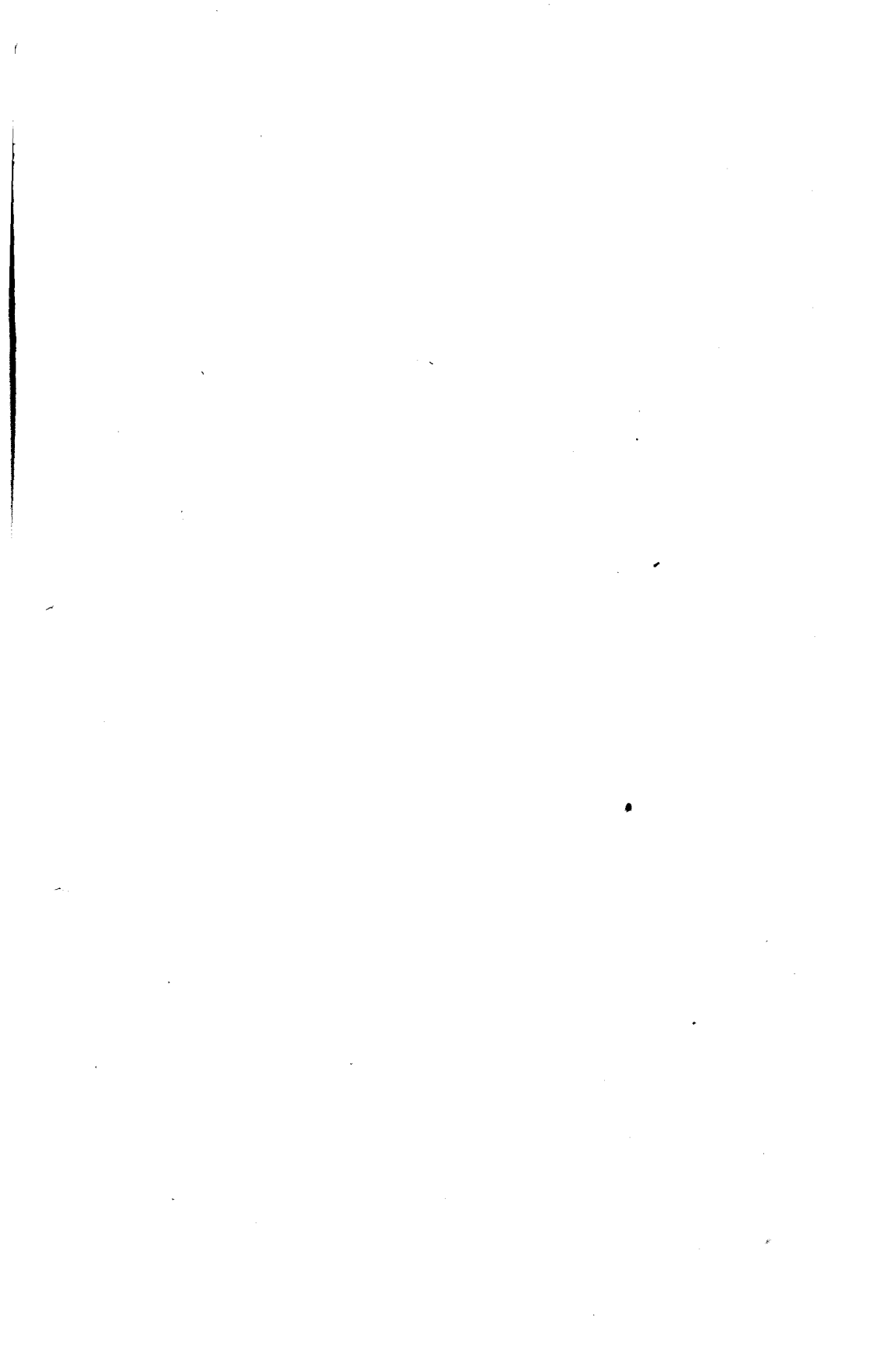


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THE
DEBATES AND JOURNAL
OF THE
CONSTITUTIONAL CONVENTION
OF THE
STATE OF MAINE
1819 - '20

And Amendments subsequently made to the Constitution.

AUGUSTA:
MAINE FARMERS' ALMANAC PRESS
1894



PUBLISHER'S PREFACE.

It is not too soon for the publication of another edition of the Debates of the Constitutional Convention of Maine. That convention was immeasurably the most important one that ever assembled on the soil between the Piscataqua and St. Croix rivers,— and its work was worthy of the occasion. The genius of statesmanship was present and dominated the deliberations. The Instrument which was then formulated and a few weeks later adopted by the people of the District of Maine, has been for more than two generations the supreme law of a sovereign State of the Republic. It was so admirably adapted to the people for whom it was prepared that for three-fourths of a century no material changes in it have been deemed necessary,— only such (in the form of amendments) as have been desirable to meet the new conditions arising from the expansion of a growing State.

There are extant but few minute records of the Convention. The press reporter as he is known seventy-five years later, had not then been evolved. The newspaper press was feeble and unable to print *in extenso* the debates and proceedings. Many interesting facts and incidents have been irrecoverably lost. The official Journal recorded concisely but with necessary brevity the formal doings and results of each day's sessions, making indeed the only technically authoritative chronicle of the Convention. This Journal, while invaluable as a record is not illuminated by any of the debates of the members. These debates,— dignified and able, and sometimes masterly,— vividly exhibit the makers of the Constitution while engaged in their work of statesmanship, and disclose how the various articles, sections and clauses of the Constitution were forged and shaped, or refined and perfected, under the hammer of discussion.

Fortunately the official Journal was well supplemented by private enterprise. The report of the Convention as compiled by

Jeremiah Perley, and published in 1820, supplies all that is lacking in the Journal. Mr. Perley's report presents nearly verbatim the remarks and speeches of the members who participated in the discussions. It is a work of inestimable value in being the only unabbreviated record of the Convention. It can be read profitably by every generation of Maine people. It is worthy to become a text-book in the public schools. This book of Debates has long been out of print, and it has become so scarce that a copy is not only a rarity but a curiosity. To make this work again accessible to the public is the prime purpose of this volume.

From the Debates we can gain as from nowhere else an adequate conception of the strength, nobility and lofty patriotism of the men who framed our Constitution. They entered upon their work with an honest desire to found a State that would endure and ensure freedom and happiness to the people; they sought for liberty in the harness of the law; they wrought well; they were inspired by high resolve and gifted with largeness of views; their every act seems to have been prompted by worthy motives and desires. In reading these debates at this time one seems to feel that somehow the birth-year of our State was related to the heroic age, and that there were giants in that generation — or at least single-minded statesmen.

The *personnel* of the Convention was notable. It was composed of men from all the professions,—the minister, teacher, physician, lawyer, editor, merchant and business man, and,—most numerous of all—the robust farmer fresh from his autumn harvest fields. There were but few whose sires or grand-sires had not been connected with the birth of the American Republic. Many were accomplished scholars. Some had won military glory in the field and others renown on the sea. The War of the Revolution, the French Revolution, the career of Napoleon Bonaparte, the War of 1812,—were world events that had taken place during the lives of most of them. Not a few had already served the people in General Court or Congress, and were ripe in experience in matters of state. A majority of the members had originally come to the wilderness to establish their homes, and now they had assembled in Convention to erect a new State dedicated to Almighty God and political liberty. Their highest encomium is the Constitution itself—the work of their hands,—on which they made the impress of their patriotism

and devotion to the public weal. A representative body of men so remarkable for intelligence and ability implies the existence of a constituency that was not only capable of conducting a separate State government, but eminently worthy of one.

The preservation of the Debates is due to the labor of Jeremiah Perley, a college-bred scholar (Dartmouth, 1803), who, in the year following that of his graduation, removed from Newbury to Hallowell, and began to study for the legal profession. He was admitted to the bar at Augusta in 1809. In 1811 he married Maria, daughter of Nathaniel Dummer. He practiced law at Hallowell for seven or eight years, and then removed to the town of Gray. The house in Hallowell in which he lived is still standing on Water street (occupied in 1894 by Mr. Chandler C. Doe.) His law office was a single-story wooden building that stood partly in the present passage-way to the city landing, and was removed in 1815 to make way for the erection of the block of five buildings since known as Kennebec Row. At the time of the Constitutional Convention, Mr. Perley was a resident of Gray. He possessed a decided aptitude and taste for literary work. Soon after the Separation and following the publication of the Debates, he prepared and published *The Maine Justice*, which was a guide and text-book for justices of the peace until the first revision of the statutes in 1842. He published in 1825, from the press of Glazier and Company, Hallowell, *The Maine Civil Officer*, which was a timely and valuable book in its day: and he subsequently published *The Maine Town Officer*,—another useful hand-book. In the year 1829, Mr. Perley removed from Gray to Orono, and continued the practice of law. He was elected a member of the school committee of Orono in 1830, '31, and '33, and moderator of the town meeting the latter year. It appears that he died about 1835, aged between fifty-five and sixty years. The compiler of the *Orono Centennial* says that "Mr. Perley was a well-read attorney but was destitute of some of the elements of the successful lawyer;" he is referred to by David Norton, in *Sketches of Oldtown*, as a "thorough, outspoken temperance man, and had no hesitation in avowing his sentiments." Few details of Mr. Perley's life have been preserved, and singularly, his personality has almost completely passed from the minds of men. His *Justice* has for a long time been supplanted by the Revised Statutes, and his two other books have also become obsolete; but his Debates are of enduring interest and are as

valuable to-day as when they were originally issued from the press. As Homer's name was made immortal by the deeds which he sang so that of Jeremiah Perley will be forever identified with the Constitution of the State of Maine. The Debates are a grand and imperishable monument to his memory.

It has been deemed appropriate for the Journal of the Convention to accompany this edition of the Debates. The last edition of the Journal was printed in 1856. After the lapse of thirty-eight years copies of it have become very scarce.

This edition of the Debates will show for the first time engraved *fac similes* of the signatures of the members of the Convention who signed the Constitution. These autographs were engraved expressly for this work.

An attempt has been made to present a brief biographical sketch of every member of the Convention. The difficulties in the way of performing such an undertaking can be easily underestimated. Seventy-five years have elapsed since the three hundred and six delegates from all parts of the District of Maine assembled for their important work. Of that comparatively large number not one is now living,—all have passed from the scenes of earth. It has often been found by the compiler difficult and sometimes impossible to obtain personal data concerning individuals who sat in the Convention. Nevertheless facts more or less abundant and interesting relating to two hundred and ninety-six have been gleaned. Some of the sketches are necessarily meagre and unsatisfactory. Had the compiler been successful in proportion to his desires and efforts no one of the sketches would have remained incomplete.

It has been the purpose of the publisher to make this book so far as possible, a repository of unabridged information concerning the genesis of the Maine Constitution, and as such he confidently offers it to the public.

CHARLES E. NASH.

Augusta, December, 1894.

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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 ingenuous 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, 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, December, 1819.

CONSTITUTION OF MAINE.

WE the people of Maine, in order to establish justice, ensure tranquility, 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 religious 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 bail-

able, 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 defense; 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 person, 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 behavior.

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 persons 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, with 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 numbers 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 Governor, 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 re-consideration, 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 re-considered, 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 behavior 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 traveling 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 Sen-

ate, 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 Councillors, 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 Councillors 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 Councillor 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 Councillor 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 Councillors. 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 authorized, 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 authorize, 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

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, Putman 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 Nos. 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, Robinston, Calais, plantations No. 3, No. 6, No. 7, No. 15, and No. 16 one.

County of Kennebeck.—The towns of Belgrade and Dearborn may elect one representative; Chesterville, 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; Norridgewock and Bloomfield, one; Starks and Mercer, one; Industry, Strong and New-Vineyard, one; Avon, Phillips, Freeman and Kingfield, one; Anson, New Portland, Emden, 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 Hampden 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, Blakesburg, 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 Councillors, 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, Councillors, 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 twenty-two.

SEC. 3. All laws now in force in this state, and not repugnant 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, commuted, 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 thirds 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 arrange-

ments 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, herein-after 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 rec-

ords, 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 lands 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 or 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 Commonwealth. 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. *Parsonsfeld*, David Marston, Abner Hazen. *Waterborough*, Samuel Bradeen, Henry Hobbs. *Limington*, David Boyd. *Cor-nish*, 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, Jr.* *Lebanon*, Daniel Wood.* *Sanford*, Elisha Allen,* Timothy Shaw.* *Shapleigh*, John Bodwell,* Samuel Heard.* *Limington*, Nathaniel Clark.* *Elliot*, Stephen Neal,* Elisha Shapleigh.*

CUMBERLAND.

Scarborough, Benjamin Larrabee, junior, Joseph Fogg. *North Yarmouth*, William Buxton, Ephraim Sturtevant, Jeremiah Buxton. *Falmouth*, Peter M. Knight, Nathan Bucknam. *Brunswick*, Robert D. Dunning, Jonathan

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

Page, Benjamin Titcomb. *Harpswell*, Stephen Purring-ton. *Gorham*, Lathrop Lewis, Joseph Adams, James Irish. *Cape Elizabeth*, Ebenezer Thrasher. *New Gloucester*, Joseph E. Foxcroft, Isaac Gross. *Gray*, Joseph McLellan. *Standish*, Theodore Mussey. *Portland*, Albion K. Paris, 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 Slemmons, John Jones. *Harrison*, Amos Thomas. *North Yarmouth*, Calvin Stockbridge.* *Windham*, Noah Reed,* Josiah Chute.* *Standish*, James D. Tucker.* *Portland*, Ezekiel Whitman,* Henry Smith,* Nicholas Emery,* Asa Clap,* Isaac Ilsley.*

LINCOLN.

Georgetown, Benjamin Riggs. *New Castle*, Ebenezer Farley. *Woolwich*, Ebenezer Delano. *Wiscasset*, Abiel Wood, Warren Rice. *Bowdoinham*, Ebenezer Herrick, Elihu Hatch. *Topsham*, Nathaniel Green. *Boothbay*, Daniel Rose, John McKown. *Bristol*, Samuel Tucker, William M'Clintock, John Fosset. *Waldborough*, 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. *Nobleboro*, Ephraim Rollins. *Cushing*, Edward Killeran. *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. *Mont-*

ville, 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. *Vassalborough*, Samuel Redington, Abiel Getchell. *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 Abbott. *Wilton*, Ebenezer Eaton. *Rome*, John S. Colboth. *Fairfax*, Joel Wellington. *Unity*, Rufus Burnham. *Malta*, William Hilton. *Freedom*, Matthew Randall. *Jay*, 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. *Bluehill*, Andrew Witham. *Trenton*, Peter Haynes. *Sullivan*, George Henman. *Gouldsboro*, Samuel Davis. *Vinalhaven*, Benjamin Beverage. *Frankfort*, Alexander Mil-

liken, 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. *Sears-mont*, 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 Trescott. *Robbinston*, Thomas Vose. *Cherryfield*, Joseph Adams. *Perry*, Peter Goulding. *Eastport*, Jonathan Bartlett.*

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. Virgii. *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 Mahew. *Avon*, Samuel Sprague. *New Vineyard*, William Talcott. *Harmony*, Robert Evans. *Industry*, Ezekiel Hinkley. *Athens*, Isaiah Dore. *Madison*, John Neal. *Embden*, 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. *Ed-dington*, Luther Eaton. *Carmel*, Abel Ruggles. *Corinth*, Andrew Strong. *Exeter*, Nathaniel Atkins. *Garland*, Amos Gordon. *New Charlestown*, 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 19th, 1819, 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 guidance and direction in their important duties ; after which the Convention adjourned to 3 o'clock, P. M.

Afternoon. The Convention proceeded to the choice of a President, by ballot ; and a committee, consisting of the Hon. Benjamin Greene, Hon. Ezekiel Whitman, Hon. James Bridge, Hon. Benjamin Ames, and the Hon. James Campbell, was appointed, to collect, sort and count the votes, who reported, that the whole number was 241 ; of which the Hon. WILLIAM KING had 230, and he was accordingly declared to be duly elected. He was then conducted to his seat, by the committee and made the following address :—

GENTLEMEN OF THE CONVENTION :

The Convention, on the suggestion of the Hon. Gentleman who preceded me in this chair, having acknowledged the goodness of the Great Legislator of the Universe, in affording the people of the District an opportunity of

entering into a solemn compact with each other, the occasion of our present meeting may now be made the subject of general congratulation.

To you, gentlemen, to whose persevering and successful efforts we are indebted for the occasion which so happily calls us together ; the people who will derive such extensive benefits from those efforts, can never cease to be grateful.

The duties you have assigned me are arduous—I will endeavor to perform them. Although they will not be the most important, they will be such as will require much of your aid and indulgence.

The Convention then proceeded to the choice of a Secretary, by ballot, when it appeared the whole number of votes was 243 ; necessary for a choice 122 ; 105 were for R. C. Vose, Esq. ; 73 for Ashur Ware, Esq. ; 50 for Nathaniel Coffin, Esq., and 15 scattering.

On the next ballot, 257 were given in ; of which Robert C. Vose, Esq., had 166 and was chosen and accepted.

The Hon. Judge Parris (of Portland) submitted three resolutions to appoint committees : 1st, to draft rules for the regulation of the Convention ; 2d, to apply to Congress for admission into the Union ; and 3d, to report a Constitution. It was then—

Resolved, That a Committee, consisting of three members be appointed to prepare and report proper rules of proceedings for this Convention. The Hon. George Thacher, Hon. Benjamin Greene, and the Hon. James Campbell, were appointed on said committee.

Resolved, That a Sergeant at Arms be appointed by the President, whose duty it shall be, to execute the orders of the Convention, and to assist the President in the preservation of order ; and he shall employ a doorkeeper and such assistants as may be necessary.

Mr. William B. Peters of Portland, was appointed.

Resolved, That the several ordained and settled clergymen of the town of Portland be requested by the Sergeant at Arms, in behalf of this Convention, from day to day, in succession according to their seniority, to attend and perform the duties of Chaplain of this Convention.

Resolved, That the President assign to any Editor of any public newspaper, or the agent of any such Editor who may apply for it, a convenient situation for the purpose of taking notes of the proceedings of this convention.

Resolved, That a committee of Elections be appointed, consisting of five members.

Voted, That the Convention adjourn, to meet in the Meeting-house of the First Parish in Portland, (which had been offered for their use) to-morrow morning at 9 o'clock.

TUESDAY, OCTOBER 12.

The Convention met according to adjournment, at the Meeting-house of the First Parish.

The committee appointed to prepare rules of proceedings having attended to the duties assigned them, reported the rules and orders of the House of Representatives of this Commonwealth, with such alterations as were requisite, to adapt them to the use of the convention.

The 14th rule provided that all committees should be nominated by the President and appointed by the convention, unless *ten* members should be in favor of their being nominated by the convention, in which case the nomination should come from the convention.

This rule was objected to by Mr. Preble, of Portland, on the ground that it put it in the power of a very small number, to control the general wish of the Convention.

After some conversation, in which Messrs. Preble, Thacher, of Biddeford, Holmes, of Alfred, and Lewis, of Gorham, took a part, the rule was amended, on the motion of the latter gentleman, so that all the committees should be nominated by the President, except 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.

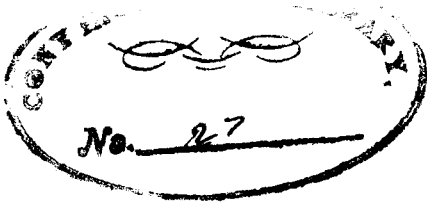
Hon. Mr. Moody, of Saco, said he was not prepared for the apportionment among the counties. He wished the number of the committee to be first fixed, and afterwards apportioned among the several counties, according to their population. He observed, the proposed number was too large for the despatch of 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 forty-nine 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. Holmes, 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 number of 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 to it. A sound construction of the act, said Mr. W., will not authorize 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, definitely, 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 guarantee 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

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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 Fryeburg. 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 com-

mittee 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 and 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; the Executive to another, and so on; and 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 thirty-three 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 authorized 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 Hampden, 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. Thatcher, 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, OCTOBER 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. Ilsley, 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. Trescott, 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 expenses of the convention, should they exceed the amount received from the Treasury of the Commonwealth. Messrs. Clapp and Ilsley 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, to-morrow at 10 o'clock, was assigned for taking the report into consideration.

Adjourned.

THURSDAY, OCTOBER 14.

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

Judge Thatcher, 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 to the discussion. It is very important, said Mr. Preble, 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 little 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 of but 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 import-

ance 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 inquire 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 taking 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. Preble 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 that 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 Thatcher 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 interests 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. Columbus 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 everywhere 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 in 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 Thacher 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 difference 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 three hundred miles in length, with a seacoast of more than two hundred miles,

and the many maratime 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 the *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 insignificancy 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 acceptance 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 prin-

cial 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 develop 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 admit-

ted 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 days' attendance thereat.

Resolved, That Mr. Locke, of Chesterville, Mr. Shepley, 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 Thacher, 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 Hope; from Kennebec, except that of Rome; from Somerset, except those of New Portland, Anson and Mercer; from Hancock, except those of Orland, Lincolnville, 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 Thacher, 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 opinion 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, 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 gentlemen 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 Neally, from the town of Monroe. The reasons stated in the remonstrance were, that said Neally 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 Neally 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 William 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 Delegates should be the same as those of Senators;—now *they* choose from the 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 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 Repre-*

rentative, 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 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 captious 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 election. 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 noth-

ing 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 judgement 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 sixty 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 Thatcher, and Judge Cony 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 105 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 authorized 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 at 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 Thatcher 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 authorized 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 the Banks due and payable as aforesaid.

REPORT OF THE COMMITTEE.

IN COMMITTEE, PORTLAND, OCTOBER 18.

The Committee to whom was referred the subject of a Constitution 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 *Ligonia*. 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 anything 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 memori-

alists, 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 descendants 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 entitled to give testimony in our courts of justice, though they were to call upon Juggernaut himself, as the God they feared. And according to the accounts lately given us by travelers, 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 acknowledgment; 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 endeavored to illustrate his meaning, by saying there 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 other's mode of worship in form, or in doctrine. But why cannot they each be 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 authorize 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 observ-

ance 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 and 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 worship; 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 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 Thacher 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 authorize 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 anything 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 authorized, 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 authorizing a confirmation of grants or donations already made. But how different is the one offered! "The Legislature shall have the *power*, and are hereby authorized, *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 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 Nantes, "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 harrass, torture and destroy one another, have been thought suitable means. It does not satisfy my mind to be told merely, 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 Thatcher 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 authorized 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. Whitman) 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. Whitman, 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. Whitman 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. Whitman 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 seem 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, nor 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 serve 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 everything 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 Waterborough, 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 Thatcher said, he did not know whether he had any feelings on this subject that amounted to a predilection 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 anything 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.

The motion passed.

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 Thatcher enquired why 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 Elliot) 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. Milliken, 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 140.

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, OCTOBER 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 1 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 taking 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, everyone has the right of appeal, and may have the judgment reversed. He saw no difficulty in selectmen 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 was 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 home,” 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 a long time had a construction which is well known to all. The word “established,” was more liable to quibbling and uncertainty as to its meaning, and we should have to resort to other language for its meaning. Much difficulty arises in times of party spirit, about voters. The qualification of property is subject to abuse from the views of the presiding officers at elections. But put the language proposed, and the same difficulty will not arise.

Mr. Holmes. The very substitute, which the gentleman proposes, was avoided by the Committee, on purpose to prevent equivocation. The word “home,” is more indefinite than the one used.

Mr. Adams thought the language could not be more definite, and hoped the motion would not prevail.

Mr. Martin, of Camden, also opposed the motion ; and it was negatived.

Judge Thacher thought the word "paupers" in this section, not sufficiently definite, and doubted whether the distinction were important, since persons without property, are admitted to the elective franchise.

Mr. Thomas, of Wells, moved to add, after the word "paupers," "supported by any town ;" which amendment was not accepted.

Mr. Whitman said, there was certainly a vagueness in the term "paupers," and moved to add "during the time they are supported in part, or in the whole, at the public expense." This would limit the meaning of the phrase, so that it would not be perverted to improper purposes.

Mr. Virgin, of Rumford, was opposed to the motion, if it went to exclude the very worthy class of citizens, who receive a pension for revolutionary services.

Mr. Whitman said, it would not apply to pensioners of the United States ; but to quiet the apprehensions of gentlemen, he would add "*by the authority of this State*;" to which Mr. Holmes assented. Col. Moody thought "paupers" definite enough ; and the motion was lost.

Mr. Herrick (of B.) moved to add to the end of the section, (as it stood,) "nor shall the residence of a student in any seminary of learning entitle him to the right of suffrage in the town or plantation where such seminary is established"— which was adopted, and the section passed as amended.

Col. Moody moved to amend the 2d section, by striking out the words after "election." The object of the section is to privilege electors from arrest, and he really thought, if a man was obliged to keep from the hands of the sheriff

for a time, that he ought to have the indulgence of breathing the air freely on election days.

Judge Cony hoped the motion would prevail. He wished that the day of our elections might be a day, in which all our citizens may enjoy their rights, to their full extent.

Judge Thatcher observed, he thought it probable, that the honorable mover, as well as some others who appeared to favor the amendment, had overlooked an important idea involved in this section, which he would barely suggest to the consideration of the Convention : it is this, that whatever exemption or right is vested in the elector, is taken from the rights of some other men. If we give the debtor the privilege of going to elections, we take from his creditors the right they have by law, to arrest him as a means, and perhaps the only means, of obtaining a just demand. He said he saw no necessity or expediency in interfering, by a constitutional provision, in the duties and rights of debtors and creditors at all. He considered it a matter of legislative, not of constitutional consideration. He could wish the whole section were omitted, but he was decidedly against the amendment. If the right of voting only was intended to be secured to debtors, this will be sufficiently done, by protecting them while going to the place of election, during the time of voting, hearing the canvas proclaimed by the selectmen and then returning home. He could invent no reason or excuse for their being protected longer than that. The whole subject is properly a legislative business. The Legislature ought to have the power, from time to time, to regulate the whole process between creditor and debtor as circumstances may require. He thought it highly proper it should be left to their consideration.

Mr. Holmes. I hope the amendment will not prevail. If we allow the day of election to be a day of jubilee, the

debtor may attend to his ordinary concerns, instead of attending elections.

The motion did not prevail, and the 2d and 3d sections passed as reported.

Mr. Dickinson made an unsuccessful motion to amend the latter section, by inserting "except when called into actual service."

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 Farmington, 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 cer-

tain number of inhabitants in one 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 neighbors. 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 estimat-

ed by dollars and cents, yet general observation will satisfy every discerning mind they are an equivalent to the expense. Much has been said in favor 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 favorable 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 district representation. This, he thought, would be attended with some inconveniences. Suppose one hundred 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 hun-

dred 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 canvass 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 fifteen 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 favorably 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 rep-

resented 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 representative 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 practiced 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 increas-

ing 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 not 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 more dispatch, and much less expense; and that with this small number, distributed upon the principles of equality, the rights and liberties of the people would be perfectly safe.

These principles are diametrically 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 anything 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 Bowdoinham, 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 dispatch, as by a small number. If it is not very excessive, it is much better that the towns should be represented.

Mr. Neal, of Elliot, 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 2d 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 pro-

pose 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 expense incurred by an increased number of representatives. If we have one for every thousand inhabitants, it will make their annual expense 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 anything 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 representa-

tives 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 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, OCTOBER 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 Norridgwock, 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 authorized to elect 230 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 Constitution had not been adopted ; *provided however*, that all such towns and plantations as would not be en-

titled 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 traveling through the country, found this to be the case; and this might be found to be the case in traveling 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 a 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 indoors 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. Ames), 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 accordingly 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. Ames), 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. Ames 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. Ames) 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. Ames, 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 100, 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 ratable 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 anything 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 Con-

stitution ; 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 tranquility. 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 hang-

ing 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 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 hear 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 Elliot, 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. Whitman) 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 a 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 the 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 anything like general legislation. The Represent-

ative 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 dispatch 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 perfect 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 simple 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 improvement, 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 peo-

ple. 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. Whitman) 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 other 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 those 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 if 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, give one representative ; 450 give 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, 12,000 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, give 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 anything 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 reduce 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 his 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 the 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 159 to 38.

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

Mr. Milliken, 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 short 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 anything 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, OCTOBER 22.

Section 3, Article 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 150." 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 theorize, 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 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 Norridgewock. 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, at from one hundred, to one hundred and fifty, and 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 Bowdoinham.) Mr. President: The most odious feature in this scheme is the arbitrary mode or 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 amendment offered by the gentleman from Bowdoinham 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 towns will uniformly succeed in electing *their* candidate. This, Sir, is not according to facts; and experience shows, 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 de-

cide 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 nor 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 show the equal operation of the scheme proposed by the committee. In that county, (said Mr. Neal) 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 twenty-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 burden 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 Eliot) 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 propor-

tional 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 Thacher 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 that 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 cheerfully 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 Edgecomb) 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 the 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 year's 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 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 Parris 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 of 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, whom 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! (interrogated Mr. Baldwin,) 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 honorable 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 Baldwin 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 Rumford, 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 amendmenss.

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 expense 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 Thatcher 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 shown it was arbitrary ; and might vary consid-

erably, 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 expense. He observed, that a good deal had been said on one side and on the other about the expense ; 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. Dearborn 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 Kennebec. The county of Kennebeck, said Mr. Dearborn, 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 sub-committee 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 practice 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 seasonably 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, anything 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, OCTOBER 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 ancient 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 unwieldy, and I may add, unsafe representation; and create an unnecessary and an enormous expense 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 Bowdoinham 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 com-

port 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 public treasury, and will offer my reasons: The first is, the very laconic one offered yesterday by the gentleman from Alfred, 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? Is it 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. Herrick here alluded to the evil consequences of the system heretofore practised. And remarked, 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 tranquility 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 confided 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 gentlemen 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 people! 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 repre-

sentatives 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 instead thereof a provision may be inserted to pay the members both for travel and attendance out of the public Treasury. (Mr. Ames 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 indi-

vidual 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 independent, 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 Representatives, 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 sec-

ond 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. Ames 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 reply to the honorable 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 of 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 Thacher 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 competent 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 expectation 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 Thacher 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 expense, an expense 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. Rose, 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 expense, 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 Boothbay 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 Honorable 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, a 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 State's 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 appointments, 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 could 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.

Section 2. Mr. Baldwin moved to amend this section, by striking out the words which vest the power of electing Councillors 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. Baldwin, 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.

Section 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.

Section 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. This motion was lost.

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 Honorable Judge Green, Judge Par-
ris, Dr. Rose, Mr. Getchell 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 Dis-

trict 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 honorable 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. Whitman, 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 department, 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 the 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 pre-

vail ; 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 United States 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 that 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 United 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. Holmes). 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, to 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 anything 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 authorized 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 representative 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 no 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 repre-

sentative 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 Legislature 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 anything 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 suffi-

cient 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 residue 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 Norridgewock, 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 assessors 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, because 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 inconveniences, 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 ; Lamson, of Wayne ; Perkins, of Weld ; Ather-ton, of Prospect ; Neal, of Madison ; Wilkins, of Orring-ton, 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. Hobbs, 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. Redington, 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 there 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 and his broad brim hat? 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 and 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 enquire 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 and cause 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

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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 Societiss 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 himself 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 wars; 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 consciences* of individuals, and simply for them to say whether they will obey a gen-

eral 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 make 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 pretension 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 *unenlightened* though *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 *impel* 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 Cæsar?* 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 Cæsar's; then said he unto them, render unto Cæsar the things that are Cæsar'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 de-

mand 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 Cæsar'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 Cæsar 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 govern-

mental 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 a 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, Baptist, 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. This 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 although 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 twelve dollars per annum 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 anything 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 should 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 whole design of which is to insure that protection.

Col. Moody hoped the motion would not prevail. It would open a field for much litigation. Who, asked Col. Moody, 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, on

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 roll 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 misapplication 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 interests thereof."

I am opposed, said Mr. Shepley, 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. Shepley, 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 Cæsars, 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 show, 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 establishments, 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 palla-

dium 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 converted 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 inde-

pendent 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 engrafts 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* in 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 reformatations 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 visitorial 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 Academies 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 Overseers. 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. Holmes 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 *visitorial 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 a *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 Councillors.

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 sitting 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 behavior for the suffrages of the people. And *he had rather vote out the whole clause of exclusion*, than 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 section 2d passed as amended.

Sections 3, 4 and 5, passed without discussion.

Section 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.

Section 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 re-

port, 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>In the County of</i>	<i>Number of Inhabitants.</i>	<i>Senators.</i>	<i>Fractions wanting.</i>	<i>Exc:ss.</i>
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		3,748
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 twenty-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 ten 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. Preble see any thing professing to be a calculation which would 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 show 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 shown 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 countries, 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. Dane, that we had not 350,000 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 of Augusta, 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 ten 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 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 exact 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.

This and several other amendments were lost.

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 Councillors, 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 Councillors, 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 ours 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, honorable 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, page 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. Dearborn,) 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. Dearborn 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. Dearborn, 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. Dearborn 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 inconveniences, 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 jus-

tice. 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 departed 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 Bowdoinham, 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. Whitmam 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 recourse 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 num-

ber 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 inhabitants, 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

*The phraseology of this article was essentially altered by the revising committee, after the making of the foregoing remarks.

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, be-

cause 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 fifty 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 additional 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 behooves 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 everything else, expect them to be guided by a view solely to their interests.

I have, said Mr. Whitman, an anxiety to make a constitution that shall confound gainsayers. Everything 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 if 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. Holmes, 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. Holmes 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 for 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. Holmes, 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. Holmes, 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 Rep-

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. Holmes 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 man. 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. Vance, 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 has 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. Baldwin, 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 the committee, disencumbered 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 tranquility. 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 back 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 insure to yourselves, your constituents and their posterity, peace and tranquility.”

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 honorable President then resumed the chair, and the honorable 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. Emery 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. Emery 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 fos-

tered 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. Emery 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. Emery in order.

Mr. Emery. 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. Holmes 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. Emery said, since the gentleman disavows any motives hostile to the interests of the large towns, I most cheerfully exonerate him from entertaining them. But while Mr. Emery 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 were

the views of the gentlemen 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 an 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 gentlemen 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 these 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. Emery 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. Emery 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. Emery 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 numerous 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. Emery 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. Emery 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. Emery 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. Emery then moved an adjournment, which was carried.

WEDNESDAY, OCTOBER 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, junior, of York, Judge Ames, of Lincoln, Mr. Jarvis, of Hancock, Mr. Burgin, of Washington, Mr. Gage, of Kennebeck, Mr. Virgin, of Oxford, Mr. Coburn, 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 conflict-

ing 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 nor 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. Atherton 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. Atherton 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, authorize 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 Norridgewock.

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. Holmes, 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 Norridgewock, 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 Belfast, 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 Parris, Gen. Chandler, Gen. Kendall, and Col. Pond, be a committee to consider and report the day to be named by the Convention, when the inhabitants of the several towns and plantations 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, once 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 deprive 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 constitution 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 exemptions, 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 engine-men 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. Baldwin, 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 Bowdoinham, 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. Atherton 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. Hooper, of Paris, who said the people expect it. But the motion was negatived, by 150 to 29.

Adjourned.

THURSDAY, OCTOBER 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 Conven-

tion 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 authorized 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. Stockbridge, 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, to 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 "license 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 Thatcher 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 practice; 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. Thatcher, 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 imposters 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, and 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 exemptions; 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 how 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 amend-

ment 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 anything 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 gentleman 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, and he accepted.

Judge Cony thought it would be proper to observe the usual practices and religious observances at the day of election, 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 United 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. It think it judicious and correct, and I shall endeavor 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 honorable 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 honorable 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 honorable 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 Holmes, 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 honorable 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, OCTOBER 29.

Gen. Wingate submitted the following resolutions :—

Resolved, That the thanks of the Convention be presented to the Reverend 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 authorized 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 Massachu-

setts ; 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 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 counter-signed 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.

Adjourned.

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.

AGREEABLY 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, Dickinson, 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, be 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, Foxcroft, Cutler 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 honorable 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, JANUARY 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 authorized 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. Ilsley, 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 to-morrow. [Gen. Irish, Col. Lewis, and Mr. Dearborn, of Hallowell, 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; Honorable 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 honorable 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 138 ; 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, JANUARY 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 ; 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, leaving a balance in the hands of the Treasurer, of \$2950.83, 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 authorized 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 honorable Judge Thacher read in his place the following resolution :—

Resolved, that the thanks of this Convention be presented to the honorable 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 honorable 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 honorable Judge Cony, *Voted*, that the Convention adjourn without day.

Adjourned accordingly.

APPENDIXES.

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*," volume 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 1788, 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 January 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 show. 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 Piscataqua 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 Oct. 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 many of them as are inclined, or can conveniently attend, are requested to meet at the meeting house of the Reverend 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 organized 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; *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 Ilsley, 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.

*Judge Longfellow, of *Gorham*.

COUNTY OF LINCOLN.

Georgetown, William Lithgow, Esq., Daniel M'Fadden ; *Topsham*, Samuel Thompson, Esq. ; *Newcastle*, Samuel Nichols, Esq. ; *Bristol*, William Jones, Esq. ; *Hallowell*, Daniel Cony ; *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 session of the Convention was, that "a committee of nine be chosen to make out a statement of the grievances the three counties labor under, and also an estimate of the expense of a separate government, and compare the same with the expense of the government we are now under." The Convention was then adjourned for a day, in order to receive the report of this committee, 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 mentioned in the vote, inserted in the above mentioned paper at the bottom of the list of grievances. The Convention was then adjourned 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 gen-

tllemen 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 instructions. 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 North-Yarmouth, 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 Cony ; *Bath*, Dummer Sewall ; *Pittston*, *Reuben Coburn ; *Winthrop*, Joshua Bean.

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."

*Members of the former Convention.

“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 a list of

grievances stated by the former Convention, 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 favor 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 anything 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 sullen 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 flattered 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 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 Falmouth Gazette, of September 17th, and October 1st, 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

APPENDIX.— 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 honorable 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*.

APPENDIX.— 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, Esq., being first chosen president, and Mr. Stephen Longfellow, 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 politics 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 chosen, be 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 labor 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 as 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 is 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 con-

veniently 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 Illsley, 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, OCTOBER 21st, 1793.

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 Thacher, 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 Tibbett; *Lewiston and Gore*, Joel Thompson; *West Pond*, Joel Richardson.

NATHANIEL DRUMMER, 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 Drummer, 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, L.L. 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, January 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, yours, &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, February 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.

SIGNATURES TO THE CONSTITUTION.

* * * * *

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.

Attest, *Robert C. Vose,*

Secretary.

COUNTY OF YORK.

John Low
George Thacher
David Marten

COUNTY OF YORK (Continued.)

Elihu Braydon

Gibson Eldon

Josiah Caine

Wm. Hobbs

Edmund Woodman

Simon Porter

Nath. Hobbs

John Rolins

David Legue

David Wilcox

Joseph Thamar

William Moody

John Burbank

COUNTY OF YORK (Concluded).

Homer Kezar

Henry Hobbs

Thos. A. Johnson

Ether Shepley,

Ellis B. Voken

Samuel Braden

Timothy Hodsdon

John. Lighton.

Rory Greene

George Warner Jr.

Richard Foxwell Cutts

Lt. Spring

Alex. Rice

COUNTY OF CUMBERLAND.

Jonathan Page
Robert D. Dunning
Ebenezer Grosvenor
Sewmfordan
Amos Thomas
Siles Estes
Benjamin Loombe
Wm Bacon
Peter M. Knight
Joseph Roberts
Jeremiah Buxton
Phineas Ingalls

COUNTY OF CUMBERLAND (Continued).

Zachariah Leach

Joseph Fogg

Benjamin Lavallee dr

Emman Sturdivant

Robinson Dunsion

Allen H. Cobb

John Jones

Thomas Persons

Amos Howland

Joseph M. Allen

Isaac Cushman

Stephen Purinton

COUNTY OF CUMBERLAND (Concluded).

Josiah Dunn Jr

Nathan Bucknam

Isaac Gros

Lot Davis

Joseph E Foxcroft

Alison R. Parves -

William P. Preble

Lothrop Lewis

J Adams

James Irish

Theodore Mussey

Chandler Freeman

COUNTY OF LINCOLN.

John Herrick

Joshua Kingate Junr.

Benjamin Ames

Samuel Tacker,

Wm McClinton

Stephen Parsons

Abel Wood

Warren Rice

Robert Foster

John Spears

Edward Kilbran

COUNTY OF LINCOLN (Continued).

Mezar Thomas

Llewellyn C. Burw

Benjⁿ Riggs -

John Neal

Isaac Brownand

John Miller

Nath^l Mather

Cyrus Eaton

Jacob Luenig^{fr}

Leel Miller

Joshua Head

COUNTY OF LINCOLN (Continued).

Ebenezer Hemick

Benjamin Parley

Thos Eastman

John Brown

Nathan Green

John Fossitt

Daniel Rose

Mark Hatch

Eben Deane

Fergus McLain

Elihu Hatch

COUNTY OF LINCOLN (Concluded).

Wmth Barnes

Joseph Small

Joseph Carr

Cyrus Davis

Isaac Lilly

Jose Powell

Isaac G. Reed

Joseph Bailing

John Doh

Eph^m Rollins

James Emor

COUNTY OF KENNEBEC.

Daniel Long

Wm Swan

John Chandler

Joshua Gage

James Bridge

Samuel Reaington

Sanford Kingsbery

Jacobe Davis

Joseph Lamson

Samuel Currier

Nathan Luther

COUNTY OF KENNEBEC (Continued).

Eben E. Eaton

Thos Francis

Jabez Gay

Daniel Gough

Benjamin Abbott

Rufus Burnham

John Hultford

Ward Lock

James Parker

Eli Pyeong

Wm. Dearborn

COUNTY OF KENNEBEC (Continued).

Saml Merdy.

Eben Bacon

Ambrose Howard

Abijah Smith

Herbert Moore

Reuel Howard

Matthew Randall

Luther Robbins

Vincent Durlow

Ralph D. Whitten

Daniel Stevens

COUNTY OF KENNEBEC (Concluded).

William Hilton

William Pullen

Abiel Getchell

Charles Smith

Wm H. Page,

Alex. Belcher

Jarl Wellington

Elias Fayson

Christopher Dyer

John S Colbath

David McGoffy

COUNTY OF HANCOCK,

Wm Abbot
Josiah Farrow

Alex^r Milliken
James Weymouth

Joseph Scally-

Elihu McKenney
Angel Lotthrop

David Alden
Benjamin Burges

James Reed

Samuel Little
A. W. Cotton.

Saml & Whitney

Alfred Johnson Junior

COUNTY OF HANCOCK (Concluded).

Nicholas Thomas, Jr.

Joshua Hall.

Peter Hayne

Andrew Witham

Horatio Moser

Synathey Harkell

Asa Green

Mark Shephard

Bordman Johnson

Samuel Davis.

Joseph Colthorn

George Hinman

Samuel Whitney.

COUNTY OF WASHINGTON.

James Campbell

Thomas Sage

John Bungin

L. Prescott

John Dickinson

William Farlee

Ephraim Whitney

Alfred Nikels

Peter Goulding

Joseph Adams

COUNTY OF OXFORD.

Lucan Dana

John Turner.

Benj^d Chandler,

James Hlooker

Cornelius Holland

Lea Fayette Perkins

Josiah Shaw

Cyrus Jaggalls

Benjamin Bradford

Thomas Chasefu

COUNTY OF OXFORD (Continued).

Walter P. Carpenter.

Asa Cummings

Philip Bradford

Aaron Wilkins

Isaac Flint

Joseph Robin

Luke Peily

Samuel Newers

William Towle

Heter b Virginia

COUNTY OF OXFORD (Concluded).

Solomon Selensky

Marshall Spring

Enoch Hall

John Grover

Eliphalet Chapman

Silvanus Poor

Abram Greenwood

Calvin B. Bee

Cornelius Perkins

James Steele

Jonah Beards

COUNTY OF SOMERSET.

W^m Kendall
William Allen, Esq.
Eleazer Colburn
Elisha Coolidge
George Bibby
James Wough
Joseph Dyer
Jonathan Brown
James Collins
Henry Norton
Benjamin French
James Mayhew

COUNTY OF SOMERSET (Concluded).

Stevens Randall

Andrew M. Taden

Samuel Saneey

Obed Wilson

Joseph Knapp

Jacob Hall

Robert Evans

William Lelott

William Elder

John Neal

Isaiah Dore

Samuel Sprague

Es^t Hunkley

Winthrop Little

COUNTY OF PENOBSCOT.

Andrew Strong

Moses Hoadson

Isaac Farrar

Joseph Tubey

Amos Gordon

John Wilkins

Nath^l Atkins

Benjamin C. Goff

John Whitney

George Leonard

Simon Nelson

COUNTY OF PENOBSCOT (Concluded).

Samuel Chamberlain

Jackson Davis

Abel Ruggles

William Patten

Daniel Perkins

Saml. Butman

Joseph Keck

Luther Eaton

Benjamin Shaw

Charles W. Snow

Wm R. Lowrey

JOURNAL

OF THE

CONSTITUTIONAL CONVENTION

OF THE

DISTRICT OF MAINE,

WITH THE

ARTICLES OF SEPARATION

AND

GOVERNOR BROOKS' PROCLAMATION

PREFIXED.

1819 - '20.

AUGUSTA:

FROM THE PRESS OF THE MAINE FARMERS' ALMANAC.

1894

Reprinted from the State's edition of 1856.

ARTICLES OF SEPARATION.

COMMONWEALTH OF MASSACHUSETTS.

AN ACT relating to the separation of the District of Maine from Massachusetts proper, and forming the same into a separate and independent State.

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,

SECTION 1. *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 prosecute as a party under the name and style of the Commonwealth of Massachusetts; 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, commuted, 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 thirds 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 moneys, stock, or other proceeds, hereafter obtained 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 and 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, 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 these two 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, and it shall be their duty, within ten years, next after the commissions shall be filled up, 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 Commission, 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 division 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, either for filling the commission in the first instance, or the renewal thereof, the other may fill up the whole commission.

Seventh. All grants of land, 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,

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 lands 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 or proprietors, not residents 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 still remained a part of the Commonwealth. And this Commonwealth shall have the same remedies within the proposed State,

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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.

SECTION 2. *Be it further enacted*, That the inhabitants of the several towns, districts, and plantations, in the District of Maine, qualified to vote for Governor or Senators, shall assemble in regular meeting, to be notified by warrants of the proper officers, on the fourth Monday of July next, and shall, in open meeting, give in their votes, on this question: "Is it expedient, that the District of Maine shall become a separate and independent State, upon the terms and conditions, provided in an act, 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.'" And the selectmen of the towns and districts, and the assessors of the plantations, shall, in open meeting, receive, sort, count and declare, and the clerks thereof, respectively, shall record the votes given for and against the measure; and the said selectmen, assessors, and clerks, respectively, shall make out an exact return thereof, under their hands and shall seal up and transmit the same to the office of the Secretary of this Commonwealth, on or before the fourth Monday of August next. And all returns, not then made, shall be rejected in the counting; and the Governor and Council shall open and examine the said returns, made as aforesaid, and shall count the votes given on the said question; and the Governor shall, by public proclamation, to be made as soon as the state of the vote can be ascertained, after the said fourth Monday of August next, make known the result, by declaring the number of votes ap-

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pearing in favor of the separation of said district, as aforesaid, and the number of votes appearing against it. And, if the number of votes for the measure shall exceed the number of votes against it, by fifteen hundred, then, and not otherwise, the people of said District shall be deemed to have expressed their consent and agreement, that the said District shall become a separate and independent State, upon the terms and conditions above stated; and in case of such majority, the Governor, in his said proclamation, shall call upon the people of said District to choose delegates to meet in convention for the purposes, and in the manner hereinafter provided; and, in addition to publishing said proclamation, in one or more of the public newspapers printed in Boston, and in the District of Maine, copies of the same, duly authenticated, shall, as soon as can conveniently be done, after the making of the same, be transmitted to the office of the clerks of the courts of Common Pleas, in the several counties of the District of Maine, for public examination; and one such copy, at least, shall be transmitted to the convention of delegates, hereinafter mentioned, when said convention shall be formed.

SECTION 3. *Be it further enacted*, That if it shall be declared by said proclamation, that the said majority of fifteen hundred votes appeared by the said returns to be in favor of the separation of the said District as aforesaid; the inhabitants of the several towns and districts, now entitled to send one or more Representatives to the General Court, and all other incorporated towns, shall, on the third Monday of September next, assemble in town meeting, to be notified by warrant of the selectmen, and shall elect one or more delegates (not exceeding the number of representatives which such town is now entitled to; each town, however, to be at liberty to elect at least one,) to meet delegates from other towns within the said District, in Convention, for the purpose of forming a constitution, or frame of government, for the said District. And at such meeting of the said inhabitants, every person qualified to vote for Senators, shall have a right to vote in the choice of delegates. And the selectmen shall preside, at such meeting, and shall in open meeting, receive, sort, count and declare the votes, and the clerk shall make a record thereof, in presence of the selectmen, and in open meet-

ing. And fair copies of the said records shall be attested by the selectmen and town clerk, and one such copy shall be delivered by the selectmen to each of the persons duly elected a delegate.

SECTION 4. *Be it further enacted*, That the persons so elected delegates, shall meet in convention, at the Court House in Portland, in the County of Cumberland, on the second Monday of October next, and they shall be the judges of the returns and election of their own members, and may adjourn from time to time, and sixty of the persons elected shall constitute a quorum for the transaction of business; and the said delegates shall, as soon as may be, proceed to organize themselves, in convention, by choosing a President, and such other officers as they may judge expedient, and establishing proper rules of proceedings; and it shall be the duty of the said convention, to apply to the Congress of the United States for its assent to be given, before the last day of January next, that the said District should be admitted into the Union, as a separate and independent State. And it shall also be the duty of the said convention, to form a constitution, or frame of government, for said new State, and to determine the style and title of the same; and such constitution, when adopted, and ratified by the people of said District, in the manner hereinafter mentioned, shall, from and after the fifteenth day of March, in the year of our Lord, one thousand eight hundred and twenty, (the consent of the Congress of the United States, then being first had, as aforesaid,) be the constitution of said new State. And the said Convention shall, as soon as may be, after having formed such constitution, or frame of government, for such new State, cause the same to be published, and sent to the several towns, districts, and plantations, within the said District of Maine; and there shall be a meeting of the inhabitants, in each of said towns, districts, and plantations, to be called and warned by the selectmen, and assessors respectively, in due course of law; and on the day named by said convention, at which meeting, every male inhabitant, having the personal qualifications, herein declared requisite in the election of delegates to said convention, shall have a right to vote; and the people so assembled, shall give in their votes in writing, expressing their approbation or disapprobation of the consti-

tution so prepared, and proposed by said convention. And the selectmen of the several towns, and the assessors of the several districts, and plantations respectively, shall preside at such meetings, and shall receive the votes of all the inhabitants, duly qualified as aforesaid, and shall sort and count them in open meeting of the town, district, or plantation; and the same shall be then and there recorded in the books of the town, district, or plantation; and a fair copy of such record shall be attested by the selectmen or assessors, and the clerk of the town, district, or plantation, respectively, and shall be, by the said selectmen or assessors, transmitted and delivered to the said convention, or to the President thereof, for the time being, or to any committee appointed to receive the same, on or before the first day of January next; on which day, or within ten days thereafter, the said convention shall be in session, and shall receive and count all the votes returned, and declare and publish the result; and if a majority of the votes so returned, shall be in favor of the constitution proposed, as aforesaid, the said constitution shall go into operation, according to its own provisions; otherwise the constitution of Massachusetts, with the addition of the terms and conditions herein provided, shall be, and be considered as the constitution of the said proposed State, in manner as hereafter provided. And to the end, that no period of anarchy may happen to the people of said proposed State, in case a new constitution shall not be so adopted and ratified by the people of said District of Maine, the present constitution of the Commonwealth of Massachusetts, shall, with the terms and conditions aforesaid, and with the exception hereinafter made, be provisionally, the constitution or frame of government, for said District; except only such parts of said constitution of Massachusetts, as relate to the style or title of said State, or may be otherwise inconsistent with, or repugnant to the situation and condition of said new State; and except, that the people of said District shall choose in their senatorial districts, as now established, three times the number of Senators now allowed them, and that the Legislature shall choose such a number of councillors, not exceeding nine, as they shall determine to be proper. And the said convention shall designate the place for the first meeting of the Legislature of said new State, and for the organization

of its government, and shall appoint a Secretary, *pro tempore*, for said new State, and the said convention shall regulate the pay of its members; and the person, authorized by said convention, may draw upon the treasury of the Commonwealth for the amount of the money paid into the treasury by the several banks within said District, for the tax upon the same, due and payable on the first Monday of October next; and the sum or sums so drawn for, and paid out of the treasury, shall be a charge upon the new State in the division of the property, provided for in the fourth article of the terms and conditions stated in the first section of this act.

SECTION 5. *Be it further enacted*, That until a Governor of the proposed State shall be chosen and qualified according to the constitution which may be in operation in said State, the person last chosen President of the said convention, shall, from and after the fifteenth day of March next, have all the power of the Governor and Council under the constitution of Massachusetts, until a new Governor shall be chosen and qualified in the said proposed State; excepting only, that the said President shall not have the power to remove from office any officer who may be duly qualified, and executing the duties of his office according to the intent and meaning of this act. And in order that there may be no failure of justice, and that no danger may arise to the people of the said District of Maine, after the fifteenth day of March next, and before the government of the said State shall be fully organized; therefore,

SECTION 6. *Be it further enacted*, That all the the laws which shall be in force within the said District of Maine, upon the said fifteenth day of March next, shall still remain, and be in force, within the said proposed State, until altered or repealed by the government thereof, such parts only excepted as may be inconsistent with the situation and condition of said new State, or repugnant to the constitution thereof. And all officers, who shall, on the said fifteenth day of March next, hold commissions, or exercise any authority within the said District of Maine, under the Commonwealth of Massachusetts, or by virtue of the laws thereof, excepting only, the Governor, Lieutenant Governor and Council, the members of the Legislature, and the Justices of the Supreme Judicial Court of the said Commonwealth of Massa-

chusetts, shall continue to have, hold, use, exercise and enjoy, all the powers and authority to them respectively granted or committed, until other persons shall be appointed in their stead, or until their respective offices shall be annulled by the government of said proposed State. And all courts of law, whatsoever, within the said proposed State, excepting only the Supreme Judicial Court, shall proceed to hear and determine all causes, matters and things, which are or may be commenced or depending before them, respectively, upon the said fifteenth day of March next, or at any time afterwards, and before the government of the said proposed State shall establish new courts within the same; and shall continue from and after the said fifteenth day of March next, to exercise the like power and authority, and in like manner as they now by law may do, until such new courts shall be so established, in their stead.

SECTION 7. *Be it further enacted,* That all actions, suits, and causes, civil and criminal, and all matters and things whatsoever, that shall, on the said fifteenth day of March next, be in any manner depending in the Supreme Judicial Court of the said Commonwealth of Massachusetts, then last holden within any county in the said District of Maine, and all writs, recognizances and other processes whatsoever, that may then be returnable to the said Supreme Judicial Court, shall be respectively transferred, and returned to, have day in, and be heard, tried, and determined in the highest court of law that shall be established in the said new State, by the government thereof; and at the first term of such court, that shall be held within the county in which such action, writ, process, or other matter or thing, may be so pending or returnable. And in all cases of appeals from any Circuit Court of Common Pleas, or Probate, or other court, which shall be made after the said fifteenth day of March next, in any action, cause, or suit whatsoever, and which would by law be made to the said Supreme Judicial [Court] thereof, it shall be sufficient for the appellant to claim an appeal, without naming or designating the court appealed to; and such appeal shall be entered at the Supreme or Superior Judicial Court, or highest court of law, to be established by the government of the said new State, which shall first thereafter be held within or for the county in which such action, cause, or suit may be pending,

and shall there be heard, tried, and determined, according to law. *Provided, however,* That nothing contained in this section shall be understood or construed to control, in any degree, the right of the people of the said new State, or the government thereof, to establish judicial courts, in such manner, and with such authority as they shall see fit; nor to prevent the said people or their government from making any other provisions, pursuant to their constitution, and not repugnant to the terms and conditions above set forth, respecting all the said actions, suits, processes, matters and things, herein above mentioned, as they shall think most proper, to prevent the discontinuance thereof, and to avoid any delay or failure of justice.

[Approved by the Governor, June 19th, 1819.]

COMMONWEALTH OF MASSACHUSETTS.

The Committee of Council appointed to examine the returns of the votes from the several towns and plantations in the District of Maine, relative to the separation of that District from Massachusetts proper. and to report thereon ; respectfully state, that they have attended to that service, and find the following result, viz :

Counties.	Whole number.	For separation.	Against separation.
Cumberland,	4,709	3,315	1,394
Hancock,	1,581	820	761
Kennebec,	4,591	3,950	641
• Lincoln,	4,057	2,523	1,534
York,	3,732	2,086	1,646
Oxford,	2,443	1,893	550
Penobscot,	815	584	231
Washington,	618	480	138
Somerset,	1,677	1,440	237
Total,	24,223	17,091	7,132

They therefore ask leave to report, that the whole number of votes, legally returned, are twenty-four thousand two hundred and twenty-three ; of which seventeen thousand and ninety-one are in favor of separation ; and seven thousand one hundred and thirty-two against it ; making the majority in favor of separation nine thousand nine hundred and fifty-nine.

The committee further report, that they have rejected only one return, which stated that there were ninety-one

votes in favor of separation and none against it; but neither the name of the town nor county appeared on the face of the return, though by a writing on the outside, unsigned, it was stated to be from Newport, in the County of Penobscot; and there were no returns from the following towns and plantations: In Kennebec County, from Temple; in Cumberland, from Thompson pond plantation; in Hancock, from Sullivan, and from Mariaville plantation; in Somerset, from Moscow and from Sebasticook plantation; from Snake Root Hill plantation; from plantations No. 3, west of Kennebec River, and No. 3, east of said River; in Penobscot, from plantation No. 3, 6th Range, Williamsburgh plantation, and plantation No. 4, 2d Range; in York, from Arundel and Limerick; in Oxford, from plantation No. 4, from Brackley's grant, and Lunt's grant; in Washington, from Addison, Cobb's Cook or plantation No. 9, and Little Machias or plantation No. 11.

All which is respectfully submitted.

BENJA. PICKMAN, *Per Order.*

COUNCIL CHAMBER, August 24, 1819.

IN COUNCIL, August 24th, 1819.

This report is accepted.

A. BRADFORD, *Sec'y of Commonwealth.*

Copy. Examined by

ALDEN BRADFORD, *Sec'y of Commonwealth.*

PROCLAMATION.

COMMONWEALTH OF MASSACHUSETTS.

By His Excellency JOHN BROOKS,
Governor of the Commonwealth of Massachusetts.

A PROCLAMATION.

WHEREAS by an act of the Legislature of this Commonwealth passed on the nineteenth day of June last, 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," it is among other things provided, that the inhabitants of the several towns, districts and plantations, in the District of Maine, qualified to vote for Governor or Senators, should assemble in regular meeting to be notified by warrants of the proper officers, on the fourth Monday of July then next, and in open meeting give in their votes on this question,—

"Is it expedient that the District of Maine shall become a separate and independent State upon the terms and conditions provided in the act aforesaid?"

And whereas provision is made by said act for the return of the votes so given, both for and against the measure, into the office of the Secretary of this Commonwealth, on or before the fourth Monday of August then next and for

the opening, examining and counting of said votes by the Governor and Council;

And whereas it is further provided in said act, that as soon after the said fourth Monday of August as the state of said votes could be ascertained, the Governor should, by public proclamation, make known the result by declaring the number of votes appearing in favor of the separation of said District as aforesaid, and the number of votes appearing against it; and in case the number of votes for the measure should exceed the number of vote against it by fifteen hundred, that the Governor should in his said proclamation, call upon the people of said District to choose delegates to meet in convention for the purposes expressed and in the manner prescribed in said Act;

Now therefore I, JOHN BROOKS, Governor of the Commonwealth of Massachusetts, do hereby declare and make known, to all whom it may concern, that upon a careful examination in manner aforesaid, of all the votes for and against said measure, duly and legally returned into the Secretary's [Office] conformably to said Act, it appears, that the whole number of votes given in favor of the separation of said District as aforesaid was seventeen thousand and ninety-one, and that the whole number of votes against it was seven thousand one hundred and thirty-two.

And inasmuch as the number of votes for said measure exceeds the number of votes against it by fifteen hundred and upwards, I do hereby, by virtue of the authority given and pursuant to the requisitions contained in said Act, call upon the inhabitants of the several towns and districts now entitled to send one or more representatives to the General Court, and all other incorporated towns in said District of Maine, to assemble in town meeting in their respective towns on the third Monday of September next,

to be notified by warrant of the selectmen, and elect one or more delegates not exceeding the number of representatives which such town is now entitled to, (each town, however, to be at liberty to elect one,) to meet delegates from other towns within the said District, in convention, at the Court House in Portland, in the County of Cumberland, on the second Monday of October next, for the purpose of forming a constitution or frame of government for the said District, and for other purposes expressed in said Act.

Given under my hand and the seal of the Commonwealth, at Boston, this twenty-fourth day of August, A. D., eighteen hundred and nineteen; and in the forty-fourth year of the independence of the United States of America.

JOHN BROOKS.

By His Excellency the Governor :

ALDEN BRADFORD, *Sec'y of the Commonwealth.*

Copy. Examined by

ALDEN BRADFORD, *Sec'y of the Commonwealth.*

CONSTITUTIONAL CONVENTION.

DISTRICT OF MAINE.

PORTLAND }
MONDAY, October 11, 1819. }

Agreeably to the provisions of the act of the Legislature of the Commonwealth of Massachusetts passed June 19, 1819, 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 act as Chairman, who after addressing the delegates took the Chair.

On motion, *Voted*, That a committee of five be appointed to examine the credentials of members, when the Hon. John Holmes, Hon. Albion K. Parris, Hon. Joshua Gage, Hon. Judah Dana, and William Abbott, Esquire, were appointed said committee.

On motion, *Voted unanimously*, That a Reverend member present be requested to offer prayers previous to proceeding to organize the convention, whereupon the Rev. Mr. Titecomb, of Brunswick, at the request of the Chairman, performed that duty.

The committee appointed to examine the credentials of the several members returned to this convention, made a report, by which it appeared, that there were two hundred and seventy-four members then present, which were legally returned ; which report being read with the names of the members so returned, was accepted.

Voted, That a committee be appointed to collect, sort, and count, the votes for President ; whereupon the Hon. Benjamin Greene, Hon. Ezekiel Whitman, Hon. James Bridge, Hon. Benjamin Ames and the Hon. James Campbell, were appointed ; the same committee, proceeded and made report, that they had performed the duties assigned, and find the whole number of votes to be two hundred and forty-one, of which the Hon. WILLIAM KING has two hundred and thirty votes ; which report was received and read from the chair, and the Hon. gentleman was declared to be duly elected ; whereupon he was conducted to the Chair, and made his acknowledgments to the convention. The convention then proceeded to the choice of a Secretary, by ballot ; and the votes being taken, it appeared that the whole number of votes given were two hundred and forty-three ; necessary to a choice, one hundred and twenty-two ; and no person appearing to have that number, the convention proceeded to a second ballot, when it appeared that the whole number of votes given in were two hundred and fifty-seven ; necessary to make a choice, one hundred and twenty-nine ; Robert C. Vose, Esq., had one hundred and sixty-six votes, and was chosen ; who accepted of the choice.

DANIEL CONY, *Chairman*.

Resolved, That a Sergeant-at-Arms be appointed by the President, whose duty it shall be to execute the orders of the convention and to assist the President in the preservation of order, and he shall employ a doorkeeper, and such assistance as may be necessary ; in pursuance of the above resolution, the President appointed Mr. William B. Peters, of Portland, to be Sergeant-at Arms.

Resolved, That a committee consisting of three members be appointed to prepare and report proper rules of proceeding for this convention. The Hon. George Thacher, Hon. Benjamin Greene and the Hon. James Campbell, were appointed on the said committee.

Resolved, That the several ordained and settled clergymen of the town of Portland be requested by the Sergeant-at-Arms, in behalf of this convention, from day to day in succession, according to seniority, to attend and perform the duties of chaplain to this convention.

Resolved, That the President assign to any editor of any public newspaper, or the agent of any such editor, who may apply for it, a convenient situation for the purpose of taking notes of the proceedings of the convention.

Resolved, That a Committee of Election be appointed, consisting of five members.

Voted, That when the convention do adjourn, that it adjourn to meet in the meeting-house of the First Parish in Portland, which had been previously prepared for the use of the convention.

Adjourned to 9 o'clock to-morrow morning.

TUESDAY, OCTOBER 12, 1819.

Met according to adjournment.

The committee appointed to prepare rules and orders having attended to the duty assigned them, made a report which was read and accepted as amended, and ordered to be printed with a list of the members and the general committees which have been appointed.

Ordered, That the wall pews on the southeast side of the meeting house be appropriated for the use of such spectators as may be invited to a seat by any of the members of this convention.

The following resolutions submitted by the Hon. Mr. Parris, were taken up and accepted as amended :

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 fourth section of the act of the Legislature of the Commonwealth of Massachusetts, passed June 19th, 1819, 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.

Ordered, That said committee be selected in manner following, viz : From the counties of York, Cumberland, Lincoln and Kennebec, five each ; from the counties of Oxford, Somerset and Hancock, three each ; and from the counties of Penobscot and Washington, two each.

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.

Resolved, That the foregoing committees be nominated by the President and appointed by the convention.

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

Resolved, That the secretary be authorized to appoint Assistants or Clerks to assist him in the duties of his office.

Voted, That when the convention do adjourn, it be until 4 o'clock this afternoon.

Adjourned.

AFTERNOON.

Met. Several packages, addressed to the convention, purporting to be from the Secretary's Office of the Commonwealth of Massachusetts, were received and ordered to lie upon the table.

Ordered, That the returns of the several members to this convention, be committed to the Committee on Elections, and the remonstrance of Nathan Shaw and others, against the election of Samuel Davis, to the same committee.

Ordered, That the Sergeant-at-Arms be directed to provide a suitable room for the accommodation of the committee on the subject of framing the constitution.

The President appointed the following committee on the constitution of the new State :

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, Mr. 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, Judge Bridge, of Augusta, Rev. Mr. Francis, of Leeds, Mr. Redington, of Vassalborough, and Gen. Wellington, of Fairfax.

Hancock. Mr. Johnson, of Belfast, Rev. Mr. Hall of Frankfort, and Mr. Johnson, of Jackson.

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.

Washington. Hon. Mr. Campbell, of Harrington, and Mr. Dickinson, of Machias.

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 Hampden, Mr. Abbot, of Castine, Mr. Chand-

ler, of Paris, Mr. French, of St. Albans, and Mr. Vance, of Calais.

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 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.

Resolved, That a committee of three members be appointed on leave of absence of members. Mr. Moody of Hallowell, Mr. Herrick of Bowdoinham, and Mr. Wood of Lebanon, were appointed said committee.

Resolved, That a committee of three members be appointed on the pay roll. Gen. Irish of Gorham, Mr. Thacher of Saco, and Col. Reed of Waldoboro', were appointed said committee.

Voted, That when the convention adjourn, it be until 10 o'clock to-morrow morning. Adjourned accordingly.

WEDNESDAY, OCTOBER 13, 1819.

Met according to adjournment.

The remonstrance of David Curtis and others, against the election of Joseph Neally, read and committed to the Committee on Elections.

Ordered, That the Committee on Elections have leave to sit in committee, during the time the convention may be in session; and that the member from the town of Dearborn, have leave to attest as Town Clerk of said Dearborn, the certificate of his election, now in the hands of the Committee on elections; and that the same indulgence be given to other members of this Convention who may have been returned under similar circumstances.

Resolved, That a committee of three members be appointed to take into consideration and report upon the the necessary expenditures of this convention exclusive of the pay roll. The Hon. Mr. Gage of Augusta, Mr. Shepley of Saco, and Mr. Illsey of Portland, were appointed on the said committee.

Leave of absence, (reported by the committee,) was given to Mr. Burr of Litchfield, Mr. McCobb of Phipsbury, and Mr. McLellan of Gray, until Monday next.

Resolved, That Col. Trescott of Lubec, Mr. Wallingford of Saco, and Commodore Tucker of Bristol, be a committee to consider and report what further acts, resolves and other documents it may be proper to obtain from the of-

office of the Secretary of the Commonwealth of Massachusetts.

Adjourned to 4 o'clock this afternoon.

AFTERNOON.

Met. The petition of Samuel Hayward and others, inhabitants of Sidney—read and committed to the committee who have under consideration the subject of preparing a constitution or frame of government for the new State.

Resolved, That a committee consisting of nine members be appointed to take into consideration, what compensation shall be allowed the members of this convention for their travel and attendance. Mr. Low of Lyman, Mr. Adams of Gorham, Mr. Spear of Thomaston, Mr. Locke of Chesterville, Col. Steele of Brownfield, Mr. Tuttle of Canaan, Col. Atherton of Prospect, Mr. Leonard of Brewer, and Mr. Burgin of Eastport, were appointed on the said committee.

Resolved, That Henry Smith, Esq., of Portland, be appointed and authorized to draw upon the Treasurer of the Commonwealth of Massachusetts, for the amount of the pay roll for the travel and attendance of the members of the convention; *provided* the same does not exceed the 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 October instant.

Ordered, That the motion made by Mr. Herrick of Bowdoinham, on the subject of arranging the seats of the members, be committed to the committee on the rules and proceedings of this convention.

Mr. Preble of Portland, chairman of the committee appointed on the subject of the style and title for the new State, made a report, which was read ; and on motion of Mr. Dearborn of Hallowell, was assigned for consideration to-morrow, at 10 o'clock.

Voted, That when the convention adjourn it be until 10 o'clock to-morrow morning.

Adjourned accordingly.

THURSDAY, OCTOBER 14, 1819.

Met according to adjournment.

Agreeably to assignment, the report of the committee made yesterday upon the subject of the style and title of the new State, was taken up, and a motion made by Mr. Parsons of Edgecomb, that the word "Commonwealth" be stricken out; and, after much debate, the motion was carried, 119 members, voting in the affirmative, and 113 in the negative. A motion was then made that the word "State" be inserted in place of the word "Commonwealth," which had been stricken out, which motion passed in the affirmative without division. On motion of Judge Ames, the report was further postponed, and the convention adjourned to 3 o'clock this afternoon.

AFTERNOON.

Met. Mr. Milliken of Frankfort, presented the remonstrance of John Hull the 2nd, and others, against the election of Samuel A. Whitney, Esq., of Lincolnville; Judge Thacher presented the remonstrance of Nathan Hanson and others, against the election of Henry Norton, Esq., of New Portland; and Mr. Dickinson of Machias, presented the remonstrance of Isaac Keen and others, against the election of William Vance, Esq., of Calais—which were severally read and committed to the Committee on Elections.

The Committee on Elections, made a report, which was read and recommitted to the same committee who reported

it; and ordered that said committee be instructed to examine all the returns of 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 thereof.

The Hon. Mr. Holmes, Chairman of the Committee appointed to prepare and report to this convention a constitution or frame of government for the new State, made a report in part, which was read, and Monday next, at 12 o'clock, was assigned for taking the same into consideration; and ordered that 500 copies of this report be printed for the use of the members.

The resolution submitted yesterday, by Mr. Kingsbery of Gardiner, was taken up and passed, as follows:

Resolved, That the Hon. Mr. Clapp and Mr. Hilsley of Portland, and Mr. Dearborn of Hallowell, be a committee of Finance to devise ways and means to defray the expenses of this convention, should the amount exceed the sum to be received from the Treasurer of the Commonwealth of Massachusetts.

On motion of Mr. Wallingford of Wells, the committee appointed yesterday to consider and report what further acts, resolves, and other documents, it may be necessary to obtain from the Secretary's Office of the Commonwealth of Massachusetts, were authorized to inquire into the expediency of applying to the office of the Secretary of the United States, for any documents in his department, which may be required for the new State.

Adjourned to 10 o'clock to-morrow morning.

FRIDAY, OCTOBER 15, 1819.

Met according to adjournment.

Ordered, That so much of the report of the committee appointed to prepare and report a constitution or frame of government for the new State, as relates to the style and title, be stricken out whenever it occurs, and that the secretary be directed so to amend said report.

Col. Atherton of Prospect, presented the petition of Phinehas Varnum and others, officers of the second brigade and twelfth division of the Militia, which was read and committed to the committee appointed to prepare and report a constitution.

Mr. Bradbury of York, was appointed on the committee upon the subject of the pay of members, in place of Mr. Low of Lyman, who is absent.

The convention resumed the consideration of the report of the committee upon the subject of the style and title of the new state. A motion was made by Judge Cony, further to amend the same by striking out the word "Maine," and to insert, in lieu thereof, "Columbus;" after much debate, the question was put and decided in the negative; the ordinance determining the style and title of the new State, was then read and passed, 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*. Done in convention this fifteenth day of October, in the year of our Lord one thousand eight hundred and nineteen.”

Adjourned to 3 o'clock this afternoon.

AFTERNOON.

Met. On motion of Judge Greene of South Berwick,

Ordered, That all ordinances and resolves in the nature of ordinances, passed by this convention, be signed by the President of the convention, and attested by the Secretary.

The committee on the subject of the pay of the members 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, as compensation 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. Lock of Chesterville, Mr. Shepley 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 districts and plantations, of the votes which may be given in for or against the constitution which may be submitted to the people for their consideration and adoption.

Mr. Lamson of Wayne, presented the petition of James Wing and others, upon the subject of the Militia, which was read and committed to the committee who have under consideration the subject of the constitution.

Voted, That when the convention adjourn, it be till to-morrow at 10 o'clock. Adjourned accordingly.

SATURDAY, OCTOBER 16, 1819.

Met according to adjournment.

Judge Thacher, chairman of the Committee of Elections, made a report, that the committee have carefully examined the returns and certificates of the delegates returned from the several towns in the District of Maine, to this convention, and that said committee are of the opinion that the delegates from the following towns are severally entitled to their seats, viz. : The delegates from all the towns in the county of York ; also, from all the towns in the county of Cumberland, except the town of Standish ; also, from all the towns in the county of Lincoln, except the town of Hope ; also, from all the towns in the county of Hancock, except the towns of Ellsworth, Knox, Orland, Gouldsboro, Monroe and Lincolnville ; also from all the towns in the county of Washington, except the town of Calais ; also, from all the towns in the county of Kennebec, except the town of Rome ; also, from all the towns in the county of Somerset, except the towns of New Portland, Anson, and Mercer ; and from all the towns in the county of Penobscot ; which report being read was accepted.

The same committee further report, that as to the elections in the towns above excepted to, on account of defects in the certificates of returns delivered to the delegates and here produced to the convention, they find that the returns produced by the delegate from the town of Standish, in the County of Cumberland, is defective in this, that it is not attested by either or any of the selectmen of said town ; and as to the returns from the towns of Bethel and Buck-

field, in the County of Oxford, in addition to many of the smaller defects before mentioned, they are defective, in that they are not attested by the town clerks of their respective towns, nor is there any other date to the return from the town of Bethel, than the year of Independence of the United States, which is stated to be the forty-third ; the return from the town of Hope, in the County of Lincoln, is defective in this, it is not attested by the town clerk ; the return from the town of Rome, County of Kennebec, appears to be defective in most of the particular requisites of the law, though it is attested by the selectmen and town clerk ; it does not appear by any express words or facts stated from which an implication can be made *what* county the town is in ; it does not appear by any express words or facts stated from which an implication can be made on what occasion the meeting was called. It states simply “that agreeably to a warrant notified according to law by the subscribers, the inhabitants of Rome met and brought in their votes as follows, viz. :

For James Philbrook, Esq., six votes.

For Capt. J. S. Colbath, twenty-three votes.

For Christopher Knight, one vote.”

Then follow the signatures of the selectmen and the town clerk. The returns from the towns of Knox and Orland, in the County of Hancock, are not attested by the selectmen of their respective towns, and the return from the town of Ellsworth is not signed by the town clerk of said town.

The returns from the towns of Anson and Mercer, in the county of Somerset, are defective in that they are not signed or attested by their respective Town Clerks. Which report being read, it was thereupon,—

Resolved, That the several members returned from the several towns of Standish, Bethel, Buckfield, Hope, Rome, Knox, Ellsworth, Orland, Anson and Mercer, are severally entitled to their seats in this convention, notwithstanding the defect or defects which may have appeared in their several returns.

The same committee reported that they had considered the remonstrance of Samuel Durgin and others, inhabitants of the town of Monroe, in the county of Hancock, against the election of Joseph Neally, returned a delegate from said town to the convention, and submitted a statement of facts which was read, and the committee further submitted the following resolution :

Resolved, That the said Joseph Neally is entitled to his seat in this convention ; which resolve was read and accepted.

The same committee further reported that they had considered the remonstrance of Jonathan Fernald and others, inhabitants of the town of Gouldsborough, against the election of Samuel Davis who is returned a delegate by said town ; the committee submitted a statement of facts, and the following resolution :

Resolved, That the said Samuel Davis is entitled to a seat in this convention ; which resolve was read and accepted.

The same committee further reported that they had had under consideration, the remonstrance of Nathan Hanson and others, against the election of Henry Norton, Esq., a delegate from New Portland, in the county

of Somerset; the committee submitted a statement of facts, and the following resolve:

Resolved, That the said Henry Norton, Esq., is entitled to his seat as a delegate from the town of New Portland; which report and resolve were read and accepted.

And the same committee further reported that they had considered the remonstrance of Daniel Lane and others, against the election of William Vance, Esq., returned as a delegate from the town of Calais, in the county of Washington, and submit the following statement of facts: That the said William Vance, at the time of his election and ever since lived in plantation number six, and that on the day of said election and before, he did state to the inhabitants and voters of said Calais, that they might legally vote for a person not an inhabitant of said town, and that the said remonstrants believed the said statement made as aforesaid had a powerful effect on the voters; and they further state that said plantation number six, has never been organized, neither have the inhabitants been assessed by the assessors of Calais, which is the next adjacent town, nor in any manner borne their share of the public burthens; and they state that they consider that the qualifications of voters and those to be elected are the same, and that they deemed the admitting the said William Vance, Esq., to hold a seat in this convention, as much an encroachment upon their rights, as if the inhabitants of plantation number six had attended said election and overpowered the inhabitants of Calais by their votes; these allegations were admitted by the said William Vance; there was no evidence before the committee, of any improper means made use of to obtain his election other than what are stated as aforesaid, or that there was any

improper conduct on the part of said delegate. Judge Thacher, then submitted the following resolution :

Resolved, That the said William Vance, Esq., is entitled to his seat in this convention ; which statement and resolution were severally read and accepted.

Judge Parris, from the committee appointed to prepare and report a constitution for the new State, made a communication to the convention, that said committee would make a further report this afternoon at 5 o'clock.

Adjourned to 3 o'clock this afternoon.

AFTERNOON.

Met. Mr. Virgin of Rumford, moved a reconsideration of the vote taken in the morning relative to the seat of William Vance, Esq. After much debate, the question was put and decided in the negative ; forty-five members voting for the reconsideration and one hundred and five against, so the motion was lost.

A further communication was received by Mr. Johnson of Belfast, from the Committee on the Constitution, informing the convention that said committee would not have it in their power to make the report this afternoon, and that the committee requested leave to have their report printed, previous to its being submitted to the convention. *There-upon Resolved*, That said committee be authorized to cause five hundred copies of their report to be printed, and that Mr. Wood of Wiscasset, be appointed to make this resolution known to the committee.

Voted, That when the convention adjourn, it be until 10 o'clock on Monday next.

Adjourned accordingly.

MONDAY, OCTOBER 18, 1819.

Met according to adjournment.

The Committee on Elections reported that they had examined the returns made of the delegate from the town of Dresden, in the County of Lincoln, and that in their opinion Isaac Lilley, Esq., is duly elected a delegate from said town, and it was thereupon —

Resolved, That the said Isaac Lilley is entitled to a seat in this convention.

Agreeably to assignment, the report of the Committee on the Constitution, made on Thursday last, was taken up, but it appearing that the chairman and many of the members of the committee who made the report were absent, the consideration of the subject was postponed, and the convention —

Adjourned to three o'clock this afternoon.

AFTERNOON.

Met. *Resolved*, That Henry Smith, Esq., of Portland, be appointed, and he is hereby authorized to draw on the Treasurer of the Commonwealth of Massachusetts, to the full amount of the money paid in the treasury by the several banks within the District, for the tax upon the same, due and payable on 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, 1819, 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; which resolve was read and accepted.

The Hon. Mr. Holmes, Chairman of the Committee appointed to prepare and report a constitution or frame of government for the new State, made a further report accompanied by a bill, which was read, and ordered that to-morrow morning, at 10 o'clock, be assigned for further consideration of the same, and that so much of the said report as has not been printed, be printed for the use of the members.

The convention resumed the consideration of the subject of the preamble and Bill of Rights. The preamble was first taken up and passed with sundry amendments. The first and second sections of the first article of the Bill of Rights were severally read and passed; the third section was also taken up and read.

Voted, That when the convention adjourn, it be until 9 o'clock to-morrow morning.

Adjourned accordingly.

TUESDAY, OCTOBER 19, 1819.

Met according to adjournment.

Judge Dana of Fryeburg, had leave of absence, by reason of sickness in his family.

Mr. Dole of Alna, presented the memorial of the Catholic Church of Maine, which was read and ordered to lie upon the table.

The convention resumed the subject of the Bill of Rights or first article of the constitution ; the third section being under consideration, was accepted with amendments.

Voted, (Two-thirds of the members present in the affirmative) That the fifth article, second chapter, of the rules and proceedings, be so far altered and amended, as that a motion for reconsideration of any vote may be made immediately after such vote may have been declared by the President.

Voted, That when the convention adjourn, it be until half-past 2 o'clock this afternoon, and that half-past 2 o'clock be the time to meet in the afternoon of each day, until the further order of the convention.

Adjourned accordingly.

AFTERNOON.

Met. On motion of Gen. Chandler, the convention reconsidered their former vote, fixing the time of adjournment.

Voted, That the convention will continue in session until half-past one, and then adjourn to meet at three o'clock in the afternoon, until the further order of the convention.

The Bill of Rights or first article of the constitution, being under consideration, and the same having been read by sections and passed upon with sundry amendments, the question was put: Will the convention accept the first part of the report of the committee, so far as relates to the adoption of the Preamble and Bill of Rights, or first article of the constitution, as amended? which report was unanimously accepted.

Ordered, That the Hon. Mr. Holmes, Hon. Mr. Whitman, and Mr. Johnson of Belfast, be a revising committee, and that the Preamble or Bill of Rights, be committed to said committee, for their examination.

The amendments to the Preamble and Bill of Rights were taken up and passed upon as follows:

Hon. Mr. Holmes moved to amend by striking out in the first and second lines, these words, "that part of Massachusetts denominated the District of," which motion passed in the affirmative.

In the seventh line, on motion of the Hon. Mr. Holmes, the words, "Great Legislator," were stricken out, and the words, "Sovereign Ruler," substituted instead.

Mr. Stevens of China, moved to amend article one, section third, in the eighth line, by inserting after the word sentiments, "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," which motion was negatived.

Mr. Emery of Portland, moved to amend in the second line by inserting after the word right, "to exercise the duty," which motion was negatived.

Hon. Mr. Whitman then moved further to amend said section in the sixteenth line after the word trust, by inserting: "As the happiness of a people and the good order and preservation of civil government essentially depend upon piety, religion and morality; and as these cannot, generally, be diffused but by the institution of the public worship of Almighty God, and of public instruction 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 authorized, by all suitable means, to encourage and uphold the institutions of public worship, and of public instruction in the principles of piety, religion and morality," which motion being put was negatived.

Mr. Hobbs of Waterborough, moved further to amend said section in the seventeenth line, by inserting, after the word State, these words, "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," which motion was negatived.

Col. Reed of Waldoborough, moved to amend section four, in the seventh and eighth lines, by inserting after the word capacity, these words, "or the qualifications of those who are candidates for the suffrages of the people," which motion passed in the affirmative.

Hon. Mr. Holmes moved further to amend the fourth section, by striking out after the word fact, in the eleventh

line to the end of the section, these words, "under the direction of the court," which motion passed in the affirmative.

The Hon. Mr. Holmes then moved further to amend, by inserting after the word jury, in the tenth line, these words, "after having received the direction of the court," and insert after shall, "at their discretion," which amendment passed in the affirmative.

Section fifth passed without amendment.

Section sixth, in the third line; Mr. Neal of Elliot, moved to amend after the word counsel, to insert "or either," which motion passed in the affirmative.

The sixth section then passed.

Section seventh: Mr. Wallingford moved to strike out in the first and second lines these words, "in all cases of a criminal nature the rights of trial by jury shall be preserved and," which motion passed in the affirmative.

The Hon. Mr. Holmes then moved further to amend said section, by inserting after the word impeachment, in the fifth line, "or in such cases of offenses as are usually cognizable by justices of the peace," which motion also passed in the affirmative, and the section ordered to be so amended.

Judge Cony moved further to amend, by inserting after the word "provide" "by law," which motion passed, and the seventh section passed as amended.

Sections eighth, ninth and tenth, passed without amendment, and section eleven was taken into consideration.

Mr. Baldwin moved to amend in the second line, by striking out these words, "ex post facto," and to insert

in lieu thereof, the following: "Laws punishing acts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible with liberty; whereupon no such law shall ever be made or exist in this State," which motion was negatived; and Mr. Wallingford moved further to amend in the third line, by striking out after the word contracts, to the end of the section, which motion was also negatived.

Section eleventh passed without amendment.

Sections twelfth, thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth and nineteenth, were then severally read and passed.

Section twentieth was then taken up, and Mr. Neal of Elliot, moved to amend in the fourth line, by inserting these words, "and the party claiming the right may be heard by himself and his counsel, or either," which motion passed in the affirmative.

Section twenty-first was then considered; and Mr. Milliken of Frankfort, moved to amend the same in the first line after the word taken, by adding these words, "or shall individual services be required," which motion was negatived, and the section passed without amendment.

Sections twenty-second, twenty-third and twenty-fourth, were severally read and passed; and the report as amended, was unanimously accepted.

The Committee on Elections reported that in their opinion Samuel A. Whitney, Esq., the sitting member from the town of Lincolnville, in the county of Hancock, is

entitled to his seat in this convention, which report was accepted.

Voted, That when the convention adjourn, it be until half-past eight 8 o'clock to-morrow morning.

Adjourned accordingly.

WEDNESDAY, OCTOBER 20, 1819.

Met according to adjournment.

Col. Atherton of Prospect, submitted the following motion and resolution, which were severally read and ordered to lie upon the table :

“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 reputable character, and of the same age, is by a law of the State exempted.”

“*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 this 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.”

The constitution, reported by the committee on that subject, was taken into consideration.

The first section of the second article, being under consideration, the Hon. Mr. Holmes moved to amend the same, by inserting after the word “State,” in the fourth line, the following: “for the term of three months next preceding any election,” which passed in the affirmative.

Mr. Shepley, of Saco, then moved to insert in the third line, after guardianship, “those who have been convicted of any infamous crime and not pardoned,” which motion being put was decided in the negative.

Mr. Vance moved further to amend in the third line, after the word Indians, by inserting, "and Negroes," which motion was negatived.

Gen. Chandler moved to amend in the fifth line by inserting after the word where, "he has," and to strike out in the sixth line, "is established," which motion was withdrawn by the mover.

Mr. Thomas of Wells, moved to insert in the second line, after the word "paupers," "supported by any town," which motion was negatived.

Hon. Mr. Whitman moved further to amend in the second line, after the word paupers, and insert, "during the time they be supported, in whole or in part, at the public expense," which motion was decided in the negative.

Mr. Herrick of Bowdoinham, moved further to amend the first section, by inserting at the end of the section the following: "Neither 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," which motion passed in the affirmative.

The first section was then passed as amended.

Second section was then taken into consideration.

Hon. Mr. Moody moved to strike out after the word "election" in the third line, to the end of the section; which motion was negatived, and the second section was then passed without amendment.

Section third. Mr. Dickinson of Machias, moved to insert at the end of the section the following: "and except when called into actual service," which motion was negatived, and the third section afterwards passed as reported by the committee.

Fourth section. Mr. Cutler of Farmington, moved to amend by striking out "September," and in lieu thereof, to insert "October," which was negatived.

Dr. Perkins of Weld, moved further to amend this section by striking out "second," and inserting in lieu thereof, "third," which motion was negatived, and the section passed without amendment.

The first and second sections of the third article, were then taken up, and passed without division.

Article four, section one, was passed without amendment.

Section second was then taken into consideration.

Judge Thacher moved to amend the same, by striking out in the second line, these words, "one hundred, nor more than two hundred members," which motion after much debate, was decided in the negative, ninety-nine members voting in favor, and one hundred and forty-nine against the motion.

Mr. Kingsbury then moved to strike out the following words in the second, third and fourth lines: "to be elected by the qualified electors on the second Monday of September annually," which motion passed in the affirmative, and the second section, as amended, passed, one hundred and thirty-seven members in the affirmative, ninety-five in the negative.

Mr. Herrick of Bowdoinham, then moved a reconsideration of the last vote; a debate ensued, which continued until the usual hour of adjournment, when the convention adjourned until three o'clock this afternoon.

AFTERNOON.

Met. The convention resumed the consideration of Mr. Herrick's motion, when the question was taken, and the motion for reconsideration prevailed, two hundred and seventeen members voting in favor of the reconsideration, and thirty-one against it.

On motion of Mr. Rose of Boothbay, *Ordered*, That the second section, as amended, and third section, fourth article, be now both taken into consideration, that the whole subject of representation may be considered at the same time.

Mr. Herrick of Bowdoinham, 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; 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."

The question on Mr. Herrick's amendment was taken up, and after much debate, the subject was postponed, and the convention—

Adjourned until to-morrow morning at half-past 8 o'clock.

THURSDAY, OCTOBER 21, 1819.

Met according to adjournment.

The Committee on Elections reported that Thomas A. Johnson, Esq., the delegate returned from the town of Cornish, in the county of York, has been duly certified, and he is in the opinion of the committee, entitled to his seat, which report was accepted.

Mr. Herrick's amendment was taken up, and after much debate, was withdrawn by the mover, and

Gen. Wingate of Bath, submitted the following amendment :

“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 Constitution 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 a 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 two hundred, and shall continue in service one year from the day next preceding the annual meeting of the Legislature. *Provided however*, that 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;”

Which motion was considered, and a debate ensued thereon which continued until the usual hour of adjournment, when the convention adjourned to 3 o'clock, P. M.

AFTERNOON.

Met. The convention resumed the consideration of General Wingate's amendment, when by consent of the mover, the amendment was permitted to lie upon the table;

and the convention took again into consideration the second and third sections of the fourth article.

Judge Bridge moved to strike out "two" and insert "three," which motion was put and decided in the negative, fifty-two for the motion and one hundred and sixty against it.

Mr. Usber then moved to strike out "two hundred" in the second line, which was also negatived.

Hon. Mr. Whitman then moved further to amend by striking out the second section, and to insert in lieu thereof, 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 or 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* of more or less, than the requisite number of inhabitants, to entitle it to elect one or more representatives, shall be considered as a district for the purpose of electing the corresponding number of representatives. The number of inhabitants in any county 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." Which motion was put and decided in the negative.

Judge Cony then moved further to amend the second line in second section, by striking out "two" and in lieu thereof to insert "one hundred and fifty," which motion was also negatived, twenty-four members only voting in favor.

Hon. Mr. Holmes moved further to amend by inserting at the end of the second section the following: "and, whenever the number of representatives shall amount to two hundred, at the next annual meeting of elections, which shall thereafter happen at any subsequent period of ten years, the people shall give in their votes on the question whether the number of representatives shall be increased or diminished; and if a majority of the 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," which motion was passed in the affirmative, sixteen members only voting against the amendment.

The amendment proposed by Gen. Wingate was again taken into consideration, and motion was made to commit the same together with the several propositions which had been submitted relative to representation; which motion was negatived, and the question was then taken on the amendment offered which also passed in the negative.

The second section of the fourth article then passed, one hundred and ninety-one members voting in favor, and thirty-six against.

Voted to adjourn to half-past 8 o'clock.

Adjourned accordingly.

FRIDAY, OCTOBER 22, 1819.

Met according to adjournment.

The convention took into consideration the third section, fourth article, of the constitution.

Col. Atherton moved to strike out the third section, and insert in lieu thereof the following: "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." The question was put upon that part of the motion which relates to dividing the State into County districts for the choice of representatives; which motion was negatived, and the amendment did not prevail.

Hon. Mr. Holmes then moved to strike out, in the eleventh and twelfth lines, the following words: "*and provided further*, that the whole number of representatives shall never be more than two hundred;" which motion passed in the affirmative.

Mr. Allen of Norridgewock, moved further to amend the second section in the first line, by striking out fifteen hundred and insert "twelve hundred;" which motion passed in the negative, eighty-six members voting in favor, and one hundred and fifty against it.

Mr. Herrick of Bowdoinham, moved further to amend the third section, by inserting in the seventh line, between the word "and," and the word "towns," "any two or more towns and plantations;" and, in the 8th line, by inserting after the word "inhabitants," "but whose inhabitants shall amount to that number, who may voluntarily unite from year to year for that purpose, shall be entitled to one representative;" which motion was also negatived.

Mr. Hobbs of Waterborough, moved to insert after the word towns, in the seventh line, the following amendment, "and plantations duly organized;" which motion passed in the affirmative.

Mr. Abbot of Castine, moved a further amendment in the thirteenth line, after the word "apportionment," by striking out "it shall contain that number," and in lieu thereof, to insert, "the House of Representatives shall contain two hundred members;" which motion passed in the affirmative.

Mr. Emery moved a further amendment to strike out "three," and to insert "five," in the fourth line; which motion was negatived.

Mr. Parsons (of Edgecomb) moved to insert at the end of the 3d 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;" which motion was negatived, twenty-seven in the affirmative and one hundred and thirty-five in the negative. The third section of the fourth article passed; two hundred and three members voting in the affirmative, and forty-one in the negative.

Section fourth was then taken into consideration.

Hon. Mr. Holmes moved to amend by inserting after the word "elected," in the third line, these words, "a citizen of the United States for five years;" which motion prevailed.

Mr. Lock moved to strike out "one," and insert "five," in the fourth line; which motion was withdrawn by the mover, and renewed by Mr. Baldwin, and the question was put and decided in the negative, forty-six members voting in the affirmative and one hundred and forty-four in the negative.

Mr. Virgin moved further to amend, by inserting after the word "resident," in the sixth line, these words, "for three months next preceding his election;" which motion passed in the affirmative.

The fourth section then passed as amended.

Section fifth was then considered.

Hon. Mr. Holmes moved to amend by striking out these words in the first and second lines of the fifth section: "The representatives shall be chosen by the qualified electors on the second Monday of September, annually;" and to insert after the word "meetings," these words, "for the choice of representatives," which motion passed in the affirmative, without division.

Hon. Mr. Holmes moved further to amend in the thirty-second line of the same section, after the word "elected," and to insert the following: "and the clerks of the 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

of January annually ;" which motion also passed in the affirmative.

Mr. Dane of Wells, moved to amend in the seventeenth line, by striking out " be held," and insert these words, " hold their meetings ;" which motion passed in the affirmative.

Mr. Davis of Gouldsborough, then moved further to amend in the twenty-fifth line, by striking out " two," and inserting in lieu thereof, " four ;" which motion also prevailed, and the section was so amended.

The question was then taken on the fifth section, and the same passed as amended.

The sixth, seventh, and eighth sections, were severally taken up and passed, and the Convention

Adjourned until 3 o'clock this afternoon.

AFTERNOON.

Met. Leave of absence was given to Mr. McCobb of Phipsburg, after this day.

Col. Moore of Clinton, presented the petition of James Gray and others, on the subject of the Militia ; which was read and ordered to lie upon the table.

The first section of the fourth article, second part, was taken into consideration.

Judge Cony moved to amend in the first and second lines of the first section, by striking out the following : " of not less than twenty-three, nor more than thirty-one" ; which motion was advocated by the honorable mover, and passed in the negative.

The first section then passed without amendment.

Mr. Dearborn of Hallowell, gave notice that he should on Monday next, at twelve o'clock, move a reconsideration of the vote passed upon the second and third sections of the fourth article, first part of the Constitution relative to representation in the House of Representatives.

The second section was then considered.

Hon. Mr. Holmes then moved to amend said section in the ninth and tenth lines, by striking out "one for every increase of eight members," and inserting these words, "until it shall arrive at the number of thirty-one, according to the increase;" which motion passed in the affirmative.

Mr. Dearborn of Hallowell, moved to strike out in the eighth line the word "three, and insert "four;" which motion was negatived, and the second section passed as amended.

Sections third, fourth and fifth, were then severally considered, and passed without amendment.

The sixth section was then considered.

Hon. Mr. Holmes moved to amend, by inserting at the beginning of the sixth section, these words: "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," and to strike out "The" and of "Senators," in the first line; which motion passed, and the sixth section passed as amended.

The seventh and eighth sections also passed.

Article fourth, part third, sections first, second, third, fourth, fifth and sixth, passed severally without amendment.

Section seventh was then taken into consideration, and the Hon. Mr. Holmes moved to strike out these words in the seventh section, commencing in the fourth line: "The expenses of the members of the House of Representatives, in traveling to the Legislature, and returning therefrom, once in every 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." A debate ensued upon this amendment, which continued until the usual hour of adjournment.

Mr. Low of Lyman, and Mr. Morrill of Wells, asked and obtained leave of absence.

Voted to adjourn to half-past 8 o'clock to-morrow morning.

Adjourned accordingly.

SATURDAY, OCTOBER 23, 1819.

Met according to adjournment.

Ordered, That the revising committee, to whom has been committed the preamble and first article of the constitution, be authorized to cause the same to be engrossed.

Dr. Thayer of Fairfield, asked and obtained leave of absence after this day.

The convention resumed the consideration of the seventh section, fourth article, part third, of the constitution.

Hon. Mr. Holmes' amendment was taken up and decided in the negative, thirty-eight members voting in the affirmative, and one hundred and fifty-six in the negative.

Rev. Mr. Hooper of Paris, moved to strike out these words: "The Senators and Representatives shall receive such compensation as shall be established by law," and to insert in lieu thereof, "The Senators and Representatives shall receive — compensation for their services, which shall not be increased or diminished, to take effect during the term for which they are elected;" which motion was negatived.

Judge Greene then moved further to amend, by inserting at the end of the seventh section, these words: "but the attendance of the members shall be paid by the several towns and classes, in which they shall have been elected;" which motion was negatived.

Mr. Herrick of Bowdoinham, moved further to amend in the first line, between the words "receive" and "such,"

by inserting these words, "out of the treasury of the State," and to strike out what remains of the section after the period following the word "it," in the fourth line; which motion was also negatived.

Hon. Mr. Holmes then moved further to amend by inserting at the end of the section, these words: "and they shall be paid for their attendance out of the public treasury, and the expense thereof shall be assessed on the inhabitants of each county, according to their number of representatives;" which motion was negatived, twenty members voting in the affirmative, and one hundred and forty-seven in the negative.

The seventh section then passed without amendment.

Sections eighth, ninth and tenth, were severally read and passed without amendment.

The eleventh section was then considered.

Mr. Vance moved to amend by striking out in the second line, "Post Offices;" which motion, after some debate was withdrawn by the mover.

Judge Thatcher then moved to strike out the following words: "no member of Congress, nor persons holding any office under the United States;" which motion was negatived.

Mr. Dane of Wells, moved to amend in the third line, and to insert after "Justices of the Peace," these words, "of the Sessions;" which motion was negatived.

Sections eleventh and twelfth, passed without amendment

Article fifth, part first, section first, passed.

Section second was then considered.

Hon. Mr. Holmes moved to amend in the second line by striking out, "on the second Monday of September annually;" which motion passed in the affirmative, as did the second section as amended.

Section third. Hon. Mr. Holmes moved to amend in the seventh line, by inserting after the word "January," these words, "then next," and in the thirteenth line, to insert after the word "list," these words, "if so many there be;" which motion passed in the affirmative, and the third section passed as amended.

Sections fifth, sixth and seventh, severally passed without amendment.

Section eighth. Hon. Mr. Holmes moved to amend in the third line by striking out the word "and," before the word "register," and inserting after the word "Probate," these words, "and Notaries Public, and all other civil and military officers, whose appointment is not by this Constitution, or shall not by law be otherwise prescribed;" which motion prevailed, and the section passed as amended.

Sections ninth, tenth, eleventh, twelfth and thirteenth, were severally read and passed without amendment.

Article fifth, part second, section first. Hon. Mr. Holmes moved to insert after the words "citizens of," in the second line, these words, "the United States and resident;" which motion passed in the affirmative.

Mr. Leighton of Shapleigh, moved further to amend, by striking out "seven," and to insert in lieu thereof, "five;" on this motion a debate ensued, which continued until the usual hour of adjournment, when the Convention

Adjourned until 3 o'clock in the afternoon.

AFTERNOON.

Met. Mr. Leighton's amendment was considered, the question taken and decided in negative, seventy-four members voting in the affirmative, and one hundred and ten in the negative.

Section first then passed as amended, without division.

Section second. Mr Baldwin moved to amend by striking out in the first, second and third lines, these words, "on the first Wednesday of January, by a joint ballot of the Senators and Representatives in Convention," and to insert in lieu thereof, "by the qualified electors on the second Monday of September;" which motion was negatived.

Mr. Dickinson then moved further to amend by striking out "appointment" in the fifth line, and to insert "Election;" and on motion of Mr. Wallingford, the section was further amended by inserting at the end thereof, these words, "and they shall be privileged from arrest, in the same manner as Senators and Representatives." The second section then passed as amended.

Section third, second line. Hon. Mr. Whitman moved to insert after the word "present," these words, "who may agree thereto;" which motion prevailed, and the section passed as amended.

Section fourth. Hon. Mr. Holmes moved to amend by striking out "Senate and House of Representatives," and to insert "Legislature;" and the Hon. Mr. Whitman moved to strike out the word "under," in the third line, and to insert the words "in the executive departments of;" which amendments passed, and the fourth section passed as amended.

Article fifth, part third, Secretary. Sections first, second, third and fourth, were severally read and passed without amendment.

Article fifth, part fourth, Treasurer. Sections first, second, third and fourth, passed severally without amendment.

Article sixth, Judicial powers. Sections first, second, third, fourth, fifth and sixth, were severally read and passed without amendment.

Article seventh, Military. Section first. Col. Currier moved to amend by inserting after the word "companies," these words, "the electors shall be twenty-one years of age;" which motion was negatived.

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 alterations should take place in such apportionment.

The Honorable Judge Green, Judge Parris, Dr. Rose, of Boothbay, Mr. Getchell of Vassalborough, Mr. Virgin, of Rumford, Col. Trescott, of Lubec, Maj. Treat, of Bangor, Col. Atherton, of Prospect, and Mr. Collins, of Anson, were appointed the said committee.

Ordered. That the second, third, fourth, fifth, and sixth articles of the constitution, be committed to the revising committee, that the same may be examined by them; and that they be directed to cause the same to be engrossed.

Mr. Butterfield of North Hill, Mr. Wallingford of Wells, and Mr. Wood of Wiscasset, asked and obtained leave of absence.

Voted, That when the convention adjourn, it be until half-past 8 o'clock, on the morning of Monday next.

Adjourned accordingly.

MONDAY, OCTOBER 25, 1819.

Met according to adjournment.

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 the separation of said District; which was ordered to be placed upon the files.

Gen. Wingate moved to reconsider the vote which passed on Saturday, on the amendment proposed by the Hon. Mr. Whitman, in the fifth article, part second, section fourth, third line, which was in these words; strike out the word "under," and insert the words, "in the Executive departments of;" which motion prevailed, and the amendment was lost.

The Hon. Mr. Holmes then moved to insert after the word "State," in the second line, the words, "or persons holding any executive office under the United States, or this State, notaries public excepted;" which motion was taken into consideration, and afterwards withdrawn by the Hon. mover.

The Hon. Mr. Holmes moved the following amendment at the end of the third section, article fourth, part first, in these words: "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 each town, authorize it to elect a representative for such portion of time, and at 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; the amendment was taken up and considered, and a motion was made to commit the same; the motion prevailed, and the same was committed to Mr. Dole, of Alna, Mr. Wood, of Lebanon, Mr. Leach, of Raymond, Mr. Lamson, of Wayne, Dr. Perkins, of Weld, Col. Atherton, of Prospect, Mr. Neal, of Madison, Mr. Wilkins, of Orrington, and Mr. Burgin, of Eastport.

Gen. Wingate then submitted a further amendment to the third section aforesaid, which was read and ordered to lie upon the table.

Section one, article seventh, Military, was then again taken into consideration.

Gen. Wingate moved to amend by inserting after the word "votes," in the second line, the words, "the members;" which motion prevailed, and the section passed as amended.

Section second was then considered.

Gen. Wingate moved to amend in the first line, by striking out after the word "the," these words, "time and manner of convening the electors, collecting the votes and certifying to the Governor the officers elected," and to insert the words, "the manner of notifying the electors, conducting the elections, and of making the returns to the Governor of the officers elected;" which motion prevailed, and the section passed as amended.

Section third. Hon. Mr. Holmes moved to amend the third and fourth lines, by striking out these words, "and the commanders of forts and garrisons," and to insert after the words "Adjutant General," the words "and

Quartermaster General: *Provided* the Adjutant General shall perform the duties of Quartermaster General until otherwise directed by law ;" which motion prevailed and the Hon. Mr. Holmes moved to amend, by inserting at the end of section third these words, " and all military officers shall be commissioned by the Governor ;" which motion prevailed, and the section was so amended.

Col. Hobbs of Berwick, moved further to amend by striking out in the first and second lines, these words: " The Major Generals shall be chosen by the Senate and House of Representatives, each having a negative on the other," and to insert, " the Major Generals shall be chosen by the Brigadier Generals, and the field officers in their respective divisions ;" which motion was decided in the negative.

Mr. Abbot of Castine, moved to strike out the word " and," and to insert the words " with advice of," in the first line ; which amendment prevailed, and the third section then passed as amended.

Section fourth passed without amendment.

Col. Stevens presented the petition of Jeremiah Bailey and others, upon the subject of the militia ; which was read and ordered to lie upon the table.

Section fifth was then considered.

Mr. Hall of Buckfield, moved to amend the same by striking out the whole of said section, and to insert in lieu thereof, the following: " The militia, who are by law obliged to bear arms, shall have a reasonable compensation for their services ;" upon which amendment a debate ensued which continued until the usual hour of adjournment, when the convention

Adjourned until 3 o'clock in the afternoon.

AFTERNOON.

Met. Mr. Hall's amendment was again considered, and the motion was amended by the mover, so as the same should read as an amendment, to be inserted at the end of the section, which motion was decided in the negative; seventy-four members voting in the affirmative, and one hundred and twenty-seven in the negative, so the motion was lost.

Col. Atherton then moved further to amend by striking out the whole of the fifth section, and to insert in lieu thereof, these words: "Section 5. No person of the age of eighteen years 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, Ministers of the Gospel, 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," which motion was negatived.

Mr. Francis of Leeds, moved a further amendment by striking out the whole of the section under consideration, and in lieu thereof, to insert the following, "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;" which motion was passed in the negative.

Gen. Chandler moved further to amend by inserting at the end of the section, these words, and all persons borne on the rolls of any Company of militia, and doing military duty therein, shall be exempt from poll-tax, in the State and County taxes, during the time he shall so do military duty; which motion passed in the negative.

Hon. Mr. Holmes moved to amend by striking out in the second line, the word "shall," and to insert the word "may;" which motion prevailed, and the fifth section then passed as amended.

Mr. Bradbury of York, asked and obtained leave of absence.

Voted, That when the Convention adjourn, it be until 7 o'clock this evening.

Adjourned accordingly.

EVENING.

Met according to adjournment.

Article eighth, Literature, was taken into consideration.

Dr. Rose moved to amend in the tenth line, by inserting after the word "made," the words "by the Legislature;" which motion passed in the affirmative.

Mr. Shepley of Saco, moved to amend by striking out these words, "the Governor and Council, shall have the power of revising and negating the doings and government of such institution, in the selection of its officers and the management of its fund; and to insert in lieu thereof, the following: "The Legislature of the State shall have the right to grant any further powers to, or 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 ;” which motion prevailed, one hundred and fifty-one members voting in the affirmative, and eighteen in the negative.

Mr. Stockbridge of North Yarmouth, moved further to amend, by striking out the whole of the “ Proviso ” in said section, in order to insert a substitute, which he read in his place ; the question was put upon striking out, and decided in the negative ; so the motion was lost, and the article passed as amended.

Article ninth, General Provisions

Section first. The Hon. Mr. Holmes moved to amend in the seventh and eighth lines, by striking out the words “ of this State,” in the seventh line, and to insert the same in the eighth line, after the word “ States ;” and further to amend by inserting at the end of the section, these words, “ and whenever the Governor or any Councilor, 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 ;” which motion prevailed, and the section passed as amended.

Section second. Gen. Wingate moved to amend, by inserting in the fourth line, after “ Adjutant General,” the words, “ Quartermaster General ;” and the Hon. Mr. Holmes moved further to amend by striking out in the third line, “ Solicitor General ;” and in the fifth line, between the words “ Sheriff and Clerk,” insert “ or,” and strike out “ or Clerk of any inferior Court ;” which motion passed in the affirmative, and the second section passed as amended.

Sections third, fourth and fifth, were severally read and passed.

Section sixth. Hon. Mr. Holmes moved to amend by inserting after the word "for," at the end of the first line, these words, "or which shall not otherwise be provided by law," and to insert at the end of the section, "but not exceeding five years;" which motion prevailed.

Mr. Knight of Falmouth, moved further to amend by adding to the section these words: "No person who denies the christian religion shall hold any office in the civil department of the State," which motion was advocated by the mover, and passed in the negative; the sixth section then passed as amended, without division.

Col. Atherton gave notice that he should at 3 o'clock to-morrow afternoon call up the resolution submitted by him, some days since, relative to the location of the seat of government.

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 said committee.

Voted to adjourn to half-past 8 o'clock to-morrow morning.

Adjourned accordingly.

TUESDAY, OCTOBER 26, 1819.

Met according to adjournment.

Mr. Thrasher, of Cape Elizabeth, moved that a committee be appointed to report to this Convention, all laws of Massachusetts which are repugnant to the Constitution of Maine; which motion was read and ordered to lie upon the table.

Judge Cony submitted the following resolution which was read and ordered to lie upon 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 a 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>In the County of</i>	<i>Number of Inhabitants.</i>	<i>Senators.</i>	<i>Fractions wanting.</i>	<i>Excess.</i>
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		3,748
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.”

The above report was read, and thereupon

Resolved, That one additional Senator be added, so 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, then moved that one additional Senator be added to the county of Hancock ; which motion was afterwards withdrawn by the mover, and

The Hon. Mr. Holmes then moved to reconsider the former votes assigning the number of Senators to be elected and returned to the first Legislature ; and to adopt the following apportionment of Senators to be elected for the first Legislature : The counties of York, Cumberland, Lincoln and Kennebec, may elect three each ; the counties of Hancock, Oxford, and Somerset, may elect two each ; the counties of Washington and Penobscot, may elect one each, making the whole number of Senators for the first Legislature twenty ; which motion passed in the affirmative.

Hon. Mr. Holmes moved to amend the fourth article, part second, in section first, line second ; and in section second, line eighth, by striking out the word “three ;” which motion prevailed.

Mr. Kingsbury of Gardiner, moved to reconsider the last vote ; which motion was negatived.

Article tenth was then considered.

Section 1st. Mr. Dane, of Wells, moved to amend by inserting after the word "next," in the second line, these words : "the choice of Councillors, 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 Councillors, Secretary and Treasurer shall be made on the last Wednesday of May next," which motion passed in the affirmative.

Hon. Mr. Holmes moved further to amend by striking out the word "four," and to insert "three," in the twenty-fourth, twenty-fifth and twenty-sixth lines, which motion prevailed ; and further to amend in the thirty-seventh line by striking out "members," and to insert the word "numbers;" which passed in the affirmative.

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. After some time in committee, the Honorable President 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.

Mr. Burnham of Limerick, asked and obtained leave of absence.

Adjourned to 3 o'clock this afternoon.

AFTERNOON.

Met. The convention again resolved themselves into a committee of the whole, and, after sometime spent therein, the Honorable President resumed the chair, and the Hon. Judge Thacher reported that the committee of the whole convention, had had under consideration the subject of representation in the House of Representatives; had made some progress, and asked leave to sit again, and there-upon

Resolved, That the said committee have leave to sit again.

Voted, That when the convention adjourn, it be until 7 o'clock this evening.

Adjourned accordingly.

EVENING.

Met. The convention again resolved themselves into a committee of the whole, upon the subject of representation in the House of Representatives, and after sometime spent therein, the Honorable President resumed the chair, and the Hon. Judge Thacher reported, that the committee of the whole convention had had under consideration the second and third sections of the fourth 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.

Voted, That when the convention adjourn, it be until half-past 8 o'clock to-morrow morning.

Adjourned accordingly.

WEDNESDAY, OCTOBER 27, 1819.

Met according to adjournment.

Hon. Mr. Holmes, chairman of the revising committee, reported the second, third and fourth articles of the constitution, as examined by them, and thereupon—

Ordered, That the said articles now be engrossed.

The Preamble and Bill of Rights, or first article of the constitution, as reported by the revising committee, as being correctly engrossed, was again read, and the same passed unanimously.

On motion of the Hon. Mr. Moody,

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. Thatcher, junior, of York, Judge Ames, of Lincoln, Mr. Jarvis, of Hancock, Mr. Burgin, of Washington, Mr. Gage, of Kennebeck, Mr. Virgin, of Oxford, Mr. Coburn, of Somerset, and Mr. Stetson, of Penobscot, be a committee to prepare an address, in behalf of this Convention, to the people of Maine, to be distributed with the constitution submitted to the people.

Mr. Boyd of Limington, asked and obtained leave of absence.

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 ; and the motion was so far withdrawn by the mover, as to admit the following :

The Hon. Mr. Holmes moved to amend the third section, fourth article, in the second line ; strike out “four thousand,” and insert “three thousand seven hundred and fifty ;” and in the fourth line, strike out “seven thousand five hundred,” and insert “six thousand seven hundred and fifty ;” which motion passed in the affirmative.

A further amendment was then moved by the honorable 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, authorize 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 ;” which amendment passed in the affirmative, 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. These propositions, 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 Norridgwock, 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. John-

son, of Jackson ; which were severally read, and ordered to be placed upon the files of the Convention.

Article eleventh, section first, was again taken into consideration.

— — — moved to amend by striking out the arrangement made as in the printed report for the county of Penobscot, and to insert in lieu thereof, the following: "The towns of Hampden and Newburg may elect one representative; Orrington and Brewer, Eddington and Plantation adjacent on the east side Penobscot, one; Banger, Orono, and Sunkhase Plantation, one; Dixmont, Newport. Carmel, Hermon, Stetson and Plantation No. 4, in the sixth range, one; Levant, Corinth, Exeter, New Charlestown, Blakesburg, Plantation No. 1, in the 3d Range, and Plantation No. 1, in the 4th Range, one; Dexter, Garland, Guilford, Sangerville, and Plantation No. 3, in the sixth Range, one; Atkinson, Sebec, Foxcroft, Brownville, Williamsburg, Plantation No. 1, 7th Range, and No. 3, in 7th Range, one;" which motion prevailed.

And the section was further amended by inserting the following arrangement and apportionment for the county of Oxford: "The towns of Dixfield, Mexico, Weld, and Plantations Nos. 1 and 4, 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 Lovel, one; Denmark, Fryeburg and Fryeburg addition, one; Buckfield and Turner, one.

The apportionment of Representatives for the counties of Lincoln and Hancock, were committed to the delegates

from said counties, respectively, for them to consider said appointment, and to report this afternoon.

Section second, line second. Mr. Kingsbury moved to amend by striking out the word "are," and to insert these words, "first elected and appointed;" which motion prevailed, and the section passed as amended.

Sections third and fourth passed without amendment.

Section fourth. Col. Moody moved to amend in the ninth line by striking out these words, "or shall not;" which motion prevailed, and the section passed as amended.

Sections fifth and sixth passed without amendment.

Adjourned to 3 o'clock this afternoon.

AFTERNOON.

Met. *Resolved*, That Col. Moody, Judge Parris, Gen. Chandler, Gen. Kendall, and Col. Pond, be a committee to consider and report the day to be named by the convention, when the inhabitants of the several towns and plantations 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, to amend in the third line after "Putnam," insert "Patricktown Plantation," and in the fifth line to strike out "Nobleborough and Newcastle," and to insert "Woolwich and Dresden;" which report was read and accepted.

The committee of delegates for the County of Hancock,

made a report as follows: Strike out after the word "one" in the sixth line to the end of the paragraph, and to insert the following: "Lincolnville, Searsmont and Belmont, one representative; Belfast and Northport, one; Prospect and Swanville, one; Frankfort and Monroe, one; Knox, Brooks, Jackson and Thorndike, one;" which report was read and 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, once in every ten years at least, and as much oftener as the Legislature shall direct;" the above amendment passed in the affirmative without division.

Col. Atherton moved to reconsider the vote, relative to the 5th Section, 7th Article of the Constitution, passed the 25th instant, and is in these words: "Section fifth. Persons of the denomination of Quakers and Shakers may 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;" the motion for reconsideration prevailed, and the section was stricken out; and, on motion of Col. Atherton, the following substitute was adopted:

"Section fifth. Persons of the denomination of Quakers and Shakers, Justices of the Supreme Judicial Court, ordained and settled 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 ;" which motion prevailed, and the section was so amended.

Several amendments were proposed to the constitution and negatived.

Mr. Thomas of Friendship, asked and obtained leave of absence, after this day.

Voted to adjourn to half-past 8 o'clock to-morrow morning.

Adjourned accordingly.

THURSDAY, OCTOBER 28, 1819.

Met according to adjournment.

Mr. Weymouth, of Belmont, submitted a proposition relative to the judiciary, which was read and ordered to lie upon 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.

The Hon. Mr. Holmes moved the following amendment to be inserted in Article tenth, Schedule, Section first; “and in case of 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 of State *pro tempore*, to be by them appointed, shall have and perform;” which amendment passed in the affirmative.

Hon. Mr. 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 authorized and required, to procure to be printed, a sufficient number of 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 this 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 of Prospect, 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 its 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.

Judge Campbell of Harrington, Mr. Vose of Robbinston, Mr. Allen of Norridgewock, Mr. Stockbridge of North Yarmouth, and the Rev. Mr. Hooper of Paris, asked and obtained leave of absence.

Agreeably to assignment, the Convention proceeded to the choice of a Secretary of State *pro tempore*.

Mr. Preble of Portland, Judge Greene, Gen. Chandler, Mr. Dole of Alna, and Mr. Johnson of Belfast, were appointed a committee to collect, sort and count the votes, for a Secretary of State *pro tempore*, for the new State.

The Committee reported that the whole number of votes given in, were two hundred and seventy-seven; necessary to a choice, one hundred and thirty-nine; no person having that number, the Convention proceeded to a second ballot; when it appeared that the whole number of votes was two hundred and ninety; necessary to a choice, one hundred and forty-six; Ashur Ware, Esq., had one hundred and fifty-seven votes, and was declared elected.

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.

Read and accepted.

Ordered, That the committee on the pay roll, be requested to make up the roll, including to-morrow.

Articles 2d, 3d, 4th, 5th, 6th, 7th and 8th of the Constitution were reported by the revising committee, as having been examined by them as correctly engrossed, were severally read and passed.

Adjourned to 3 o'clock this afternoon.

AFTERNOON.

Met. Mr. Low of Lyman, submitted the following resolution.

Resolved, unanimously, that this Convention present their thanks to their honorable 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, was read by the Secretary, and unanimously adopted.

Upon which the honorable 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.

Mr. Preble of Portland, Judge Greene, Gen. Chandler, Mr. Dole of Alna, and Mr. Johnson of Belfast, were appointed a committee to collect, sort and count the votes for a Treasurer; when it appeared that the whole number of votes given in was 263; necessary to a choice, 132; and honorable 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 this State, shall be apportioned and assessed equally according to the just value thereof;" which motion passed in the affirmative, 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.

And the question was 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.

Mr. Coburn of Bloomfield, Mr. Sprague of Avon, Mr. Legrow of Lebanon, Mr. Adams of Gorham, Messrs. Cutler and Gay of Farmington, Mr. Lamson of Wayne, Mr. Francis of Leeds, Mr. Abbot of Castine, Mr. French of St. Albans, Mr. Herrick of Bowdoinham, and Mr. Waugh of Starks, asked and obtained leave of absence.

Voted to adjourn to half-past 8 o'clock to-morrow morning.

Adjourned accordingly.

FRIDAY, OCTOBER 29, 1819.

Met according to adjournment.

Gen. Wingate submitted the following resolutions:—

Resolved, That the thanks of this Convention be presented to the reverend 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 members of 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 this Convention.

The above resolutions were unanimously adopted.

Ordered, That the Secretary of this convention be directed to notify the Hon. Albion K. Parris, that he has been elected by the convention their Treasurer; and also that he notify Ashur Ware, Esquire, that he has been elected by this convention, Secretary *pro tempore*, of the State of Maine.

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, districts and plantations, on the first Monday of December next, to give in their votes in writing, expressing their approbation or disapprobation of said constitution.

Read and accepted.

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.

Read and accepted.

Resolved, That the Treasurer of the Convention be authorized to borrow such sum of money, as may be necessary, to pay the members of this Convention.

Read and accepted.

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.

Read and accepted.

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 Senators and the Representatives in Congress from Maine.

Read and accepted.

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.

Read and accepted.

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.

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 and printed with the constitution ; read and accepted.

A communication was received from Ashur Ware, Esq., signifying his acceptance of the office of Secretary *pro tempore*, which was read.

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.

Adjourned to three o'clock this afternoon.

AFTERNOON.

Met. *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 Hon. 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.*

YORK COUNTY.

York,	.	.	.	Elihu Bragdon.
do.	.	.	.	David Wilcox.
Kittery,	.	.	.	Alexander Rice.
Berwick,	.	.	.	William Hobbs.
do.	.	.	.	Nathaniel Hobbs.
do.	.	.	.	Richard F. Cutts.
Wells,	.	.	.	Joseph Thomas.
Arundel,	.	.	.	Simon Nowell.
Parsonsfield,	.	.	.	David Marston.
do.	.	.	.	Abner Keazer.
Saco,	.	.	.	Wm. Moody.
do.	.	.	.	Ether Shepley.
do.	.	.	.	Geo. Thatcher, Jr.
Lebanon,	.	.	.	David Legrow.
Buxton,	.	.	.	Gideon Elden.
do.	.	.	.	Josiah Paine.
do.	.	.	.	Edmund Woodman.
Lyman,	.	.	.	John Low.
do.	.	.	.	John Burbank.
Biddeford,	.	.	.	George Thatcher.
do.	.	.	.	Seth Spring.
Waterboro',	.	.	.	Samuel Bradeen.
do.	.	.	.	Henry Hobbs.
Limington,	.	.	.	David Boyd.
Cornish,	.	.	.	Thomas A. Johnson.
Alfred,	.	.	.	John Holmes.
Hollis,	.	.	.	Ellis B. Usher.
do.	.	.	.	Timothy Hodgdon.
South Berwick,	.	.	.	Benj. Greene.
Limerick,	.	.	.	John Burnham.
Shapleigh,	.	.	.	John Leighton.

CUMBERLAND COUNTY.

Scarboro',	.	.	Benjamin Larrabee, Jr.
do.	.	.	Joseph Fogg.
North Yarmouth,	.	.	William Buxton.
do.	.	.	Ephraim Sturdivant.
do.	.	.	Jeremiah Buxton.
Falmouth,	.	.	Peter M. Knight.
do	.	.	Nathan Buckman.
Standish, .	.	.	Theodore Mussey.
Portland,	.	.	Albion K Parris.
do.	.	.	Wm. P. Preble.
Freeport, .	.	.	Solomon Dennison.
Durham, .	.	.	Secomb Jordan.
do.	.	.	Allen H. Cobb.
Bridgton, .	.	.	Phinebas Ingalls.
Poland, .	.	.	Josiah Dunn, Jr.
Brunswick,	.	.	Robert D. Dunning.
do.	.	.	Jonathan Page.
do.	.	.	Benjamin Titcomb.
Harpwell,	.	.	Stephen Purrington.
Gorham, .	.	.	Lathrop Lewis.
do.	.	.	Joseph Adams.
do.	.	.	James Irish.
Cape Elizabeth, .	.	.	Ebenezer Thrasher.
New Gloucester,	.	.	Joseph E. Foxcroft.
do.	.	.	Isaac Gross.
Gray, .	.	.	Joseph McLellan.
Minot, .	.	.	Asaph Howard.
do.	.	.	Chandler Freeman.
Danville, .	.	.	Joseph Roberts.
Baldwin, .	.	.	Lot Davis.
Raymond,	.	.	Zachariah Leach.

CUMBERLAND COUNTY (Concluded).

Pownal,	Isaac Cushman.
Westbrook,	Silas Estes.
do.	Thomas Slemons.
do.	John Jones.
Harrison,	Amos Thomas.

LINCOLN COUNTY.

Georgetown,	Benjamin Riggs.
New Castle,	Ebenezer Farley.
Woolwich,	Ebenezer Delano.
Topsham,	Nathaniel Greene.
Boothbay,	Daniel Rose.
do.	John McKown.
Bristol,	Samuel Tucker.
do.	Wm. McClintock.
do.	John Fossett.
Waldoboro',	Joshua Head.
do.	Isaac G. Reed.
do.	Jacob Ludwig, Jr.
Wiscasset,	Abial Wood.
do.	Warren Rice.
Bowdoinham,	Ebenezer Herrick.
do.	Elihu Hatch.
Nobleboro',	Ephraim Rollins.
Cushing,	Edward Killeran.
Camden,	Nathaniel Martin.
Dresden,	Isaac Lilley.
Lewiston,	John Herrick.
Litchfield,	John Neal.
do.	David C. Burr.
Lisbon,	Nathaniel Eames.
do.	James Small.

LINCOLN COUNTY (Concluded).

Edgecomb,	.	.	Stephen Parsons.
Warren,	.	.	John Miller.
do.	.	.	Cyrus Eaton.
Thomaston,	.	.	Isaac Barnard.
do.	.	.	John Spear.
Bath,	.	.	Joshua Wingate, Jr.
do.	.	.	Benjamin Ames.
Union,	.	.	Robert Foster.
Bowdoin,	.	.	Joseph Carr.
St. George,	.	.	Joel Miller.
Hope,	.	.	Fergus McClaine.
Palermo,	.	.	Thomas Eastman.
Montville,	.	.	Cyrus Davis.
Jefferson,	.	.	Jesse Rowell,
Friendship,	.	.	Melzer Thomas.
Whitefield,	.	.	Joseph Bailey.
Putnam,	.	.	Mark Hatch.
Alna,	.	.	John Dole.
Wales,	.	.	Joseph Small.

KENNEBEC COUNTY.

Hallowell,	.	.	Samuel Moody.
do.	.	.	Wm. H. Page.
do.	.	.	Benj. Dearborn.
Winthrop,	.	.	Alexander Belcher.
do.	.	.	Daniel Campbell.
Vassalboro',	.	.	Sam'l Redington.
do.	.	.	Abiel Getchell.
Winslow,	.	.	William Swan.
Pittston,	.	.	Eli Young.
Greene,	.	.	Luther Robbins.

• KENNEBEC COUNTY (Continued).

Readfield,	.	.	John Hubbard.
do.	.	.	Samuel Currier.
Sidney,	.	.	Reuel Howard.
do.	.	.	Ambrose Howard.
Farmington,	.	.	Nathan Cutler.
do.	.	.	Jabez Gay.
New Sharon,	.	.	Christopher Dyer.
Clinton,	.	.	Herbert Moore.
Fayette,	.	.	Charles Smith.
Belgrade,	.	.	Elias Taylor.
Harlem,	.	.	William Pullen.
Augusta,	.	.	Daniel Cony.
do.	.	.	Joshua Gage.
do.	.	.	James Bridge.
Wayne,	.	.	Joseph Lamson.
Monmouth,	.	.	John Chandler.
do.	.	.	Simon Dearborn, Jr.
Mt. Vernon,	.	.	David McGaffy.
Gardiner,	.	.	Jacob Davis.
do.	.	.	Sanford Kingsbury.
Temple,	.	.	Benjamin Abbot.
Wilton,	.	.	Ebenezer Eaton.
Rome,	.	.	John S. Colbath.
Leeds,	.	.	Thomas Frances.
Chesterville,	.	.	Ward Locke.
Vienna,	.	.	Nathaniel Whittier.
Waterville,	.	.	Abijah Smith
do.	.	.	Ebenezer Bacon.
Fairfax,	.	.	Joel Wellington.
Unity,	.	.	Rufus Burnham.
Malta,	.	.	William Hilton.

KENNEBEC COUNTY (Concluded.)

Freedom,	.	.	Matthew Randall.
Joy,	.	.	James Parker.
China,	.	.	Daniel Stevens.

HANCOCK COUNTY.

Belfast,	.	.	Alfred Johnson, Jr.
Isleboro',	.	.	Josiah Farrow.
Deer Isle,	.	.	Ignatus Haskell.
do.	.	.	Asa Green.
Bluehill,	.	.	Andrew Witham.
Trenton,	.	.	Peter Haynes.
Sullivan,	.	.	George Henman.
Gouldsborough,	.	.	Samuel Davis.
Vinalhaven,	.	.	Benj. Beverage.
Frankfort,	.	.	Alexander Milliken.
do.	.	.	Joshua Hall.
Bucksport,	.	.	Samuel Little.
Northport,	.	.	David Alden
Eden,	.	.	Nicholas Thomas, Jr.
Orland,	.	.	Horatio Mason.
Ellsworth,	.	.	Mark Shepard.
Lincolnville,	.	.	Sam'l A. Whitney.
Belmont,	.	.	James Weymouth.
Brooks,	.	.	Samuel Whitney.
Jackson,	.	.	Boardman Johnson.
Searsmont,	.	.	Ansel Lathrop.
Swanville,	.	.	Eleazer Nickerson.
Thorndike,	.	.	Joseph Blethen.
Monroe,	.	.	Joseph Neally.
Prospect,	.	.	Abel W. Atherton.
Castine,	.	.	William Abbot.
Knox,	.	.	James Weed.

WASHINGTON COUNTY.

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

OXFORD COUNTY.

Fryeburg, . . .	Judah Dana.
Turner, . . .	John Turner.
do. . . .	Philip Bradford.
Hebron, . . .	Alexander Greenwood.
Buckfield, . . .	Enoch Hall.
Paris, . . .	James Hooper.
do. . . .	Benj. Chandler.
Norway, . . .	Aaron Wilkins.
Hartford, . . .	Joseph Tobin.
Sumner, . . .	Calvin Bisbee.
Rumford, . . .	Peter C. Virgin.
Lovell, . . .	Josiah Heald, 2d.
Brownfield, . . .	James Steele.
Jay, . . .	Cornelius Holland.
Livermore, . . .	Benjamin Bradford.
do. . . .	Thomas Chase, Jr.
Bethel, . . .	John Grover.
Waterford, . . .	Josiah Shaw.
Albany, . . .	Asa Cummings.
Dixfield, . . .	Solomon Leland.

OXFORD COUNTY (Concluded).

East Andover,	.	.	Sylvanus Poor.
Gilead,	.	.	Eliphaz Chapman.
Newry,	.	.	Luke Reily.
Denmark,	.	.	Cyrus Ingalls.
Porter,	.	.	William Towle.
Hiram,	.	.	Marshal Spring.
Woodstock,	.	.	Cornelius Perkins.
Sweden,	.	.	Samuel Nevers.
Mexico,	.	.	Walter P. Carpenter.
Greenwood,	.	.	Isaac Flint.
Weld,	.	.	Lafayette Perkins.

SOMERSET COUNTY.

Canaan,	.	.	Wentworth Tuttle.
Fairfield,	.	.	William Kendall.
Norridgewock,	.	.	William Allen, Jr.
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 Door.
Madison,	.	.	John Neal.
Embden,	.	.	Andrew McFadden.
Palmyra,	.	.	Samuel Lancy.
Freeman,	.	.	Jonathan Brown.
New Portland,	.	.	Henry Norton.
Solon,	.	.	Elisha Coolidge.

SOMERSET COUNTY (Concluded).

Bingham,	.	.	Obed Wilson.
Phillips, .	.	.	Joseph Dyer.
St. Albans,	.	.	Benjamin French.
Kingfield,	.	.	Joseph Knapp.
Corinna, .	.	.	William Elder.
Ripley, .	.	.	Jacob Hale.
Bloomfield,	.	.	Eleazer Coburn.
Warsaw, .	.	.	Stevens Kendall.

PENOBSCOT COUNTY.

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

Voted, That when the Convention adjourn, 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*.

ADDRESS.

The committee appointed on the 27th of October, 1819, to prepare an address to the people of Maine, to accompany the Constitution to be submitted, made the following report, by Mr. PREBLE, their Chairman, which was printed by the previous order of the Convention. The following is the address :

To the People of Maine.

FELLOW CITIZENS: The Delegates, elected to form a Constitution and Frame of Government, now present you the result of their deliberations.

They invite you to review it carefully, to weigh well its provisions. It is not submitted as a perfect system. In some few important provisions it is a compromise of conflicting interests and opinions ; and, though not perfect, it is the best, upon which the convention under existing circumstances could agree.

In deciding upon its merits and demerits, the convention feel assured, you will be influenced by that candor and liberality, which always pervades an enlightened community.

The Constitution of Massachusetts, venerable as the work of the fathers of the revolution, endeared to the people by many associations and replete with the soundest principles of liberty and government, has in forty years experience proved inconvenient and defective in some few of its provisions.

Assuming that instrument for a basis, the convention proceeded to frame a Constitution for the State of Maine, deviating in those cases only, where the experience of this and of other States in the Union seemed to justify and require it.

They have omitted, as inconsistent with the dignity of the subject and the simplicity of "the truth," a provision, which, though *professing much*, is utterly *nugatory in practice*.

The worship of Jehovah, to be acceptable, must be a free will offering. The laws of man can reach no further, than to external deportment.

Our holy religion neither requires nor admits their aid. The heart and affections, the seat of vital religion, cannot be regulated by human legislation.

The rights of conscience are secured by universal toleration, placing all religious denominations on the footing of the most perfect equality. For the purpose of rendering this provision more certain in its operation all religious tests, as qualifications for office, are excluded. By requiring however that all officers shall be under oath, it is necessarily presupposed, that they believe in the existence and providence of God.

In times of party excitement the doctrine of libels, recognized by the common law, is sometimes employed as an engine of oppression.

The convention have endeavored to guard against the evil by making the truth of the matter published a sufficient justification in all cases, where the conduct of public men is in question, or where the public good may be promoted by a knowledge of the facts disclosed.

Pecuniary qualifications of electors have been productive of little benefit; sometimes of injustice.

They are too often relaxed or strained to suit the purposes of the day. The convention have therefore extended the right of suffrage, so that no person is disqualified for want of property, unless he be a pauper. With the same views electors under certain limitations and restrictions are also privileged from arrest on days of election.

The necessity of a reduced representation seems to be acknowledged by all. The number, to which it ought to be reduced, and the manner of making that reduction, are questions, on which scarcely two could be found to precisely agree. If some were in favor of even less than one hundred, others were the advocates of unlimited representation.

The convention adopted an intermediate course, limiting the number of representatives at not less than one hundred, nor more than two hundred, and referring the question back to the people themselves, when the number shall have reached the highest limit, whether that number shall be increased or diminished.

But the difficulties arising out of this embarrassing branch of the business entrusted to your delegates, did not here terminate. Many were advocates of a general districting system; others were equally strenuous for a representation by towns. The convention once more adopted an intermediate course.

The whole number of representatives to be elected is first to be apportioned and assigned to the several counties on the most exact principles of equity and justice. Thus the great sections of the State, the several counties, which are but larger corporations, actuated to a certain extent by a community of interests, have their due weight according to their population. The number of representatives, thus apportioned and assigned to any county, is

next to be distributed among the respective towns in such county, each town, having the competent number of inhabitants being entitled to one or more ; and towns and plantations not having that number, to be classed as conveniently as possible. On any practicable system there will be fractions, and the representation of course unequal. If under the system adopted by the convention, the large towns have not their full representation, it is preserved in the county of which they are a part. They have their representatives ; and even their fractions, which would otherwise be lost to them, are represented through the smaller towns of their county, who can seldom have an interest at variance with their own

The Senate is predicated upon population.

This rule of apportionment seemed to the convention most consonant to the principles of a government by the people. Property will always possess at least its full share of influence without being specially represented in the Senate.

The Council are selected from among the people by the two branches of the Legislature. You thus avoid the idle ceremony of electing in the first instance from the Senate ; and you preserve to the Senate its proper number and distinctive character. And with the view to preserve in the Council a steady regard to the public good, councillors are precluded from receiving any appointment during the time, for which they shall have been elected.

The provision respecting exempts from military duty was called for by the united voice of the militia. It tends to equalize the burthen, and to render the militia more respectable and more efficient. This duty, in its nature a personal service, ought not to fall exclusively upon any class of citizens. In the opinion of the convention, every

able bodied male citizen of suitable age ought to perform it, or, in some form or other, pay an equivalent.

Free governments cannot long exist, where the people are ignorant and depraved. The due administration of our own must essentially depend upon the intelligence and virtue of our citizens. The State therefore has a deep interest in the education of our youth. Hence the convention have made it the imperative duty of the Legislature to cause schools to be supported in the several towns, and to encourage and suitably endow academies, colleges and seminaries of learning, by extending to them as far, as the circumstances of the people would authorize, the patronage of the State. At the same time it was thought proper, that the Legislature should so far retain such a general and superintending power over these institutions, as should enable it to aid the cause of good learning, and prevent the perversion or abuse of the public munificence.

To preserve the purity of the Legislature, its members under certain limitations and restrictions are disqualified, during the term, for which they are elected, from being appointed to any civil office, which may be created, or the emoluments of which may be increased, during such term. With similar views, and to prevent a system of favoritism, all persons holding lucrative appointments are excluded both from the Legislature and Council. This exclusion was deemed peculiarly proper in so far, as respects judicial officers.

Thus you preserve the several departments of the government distinct. Thus you remove those important offices as far, as possible, from all temptation to court the popular favor perhaps at the expense of justice.

On a pure, intelligent, upright, and independent judiciary, the people more immediately depend for the impar-

tial interpretation and administration of the laws, and for protection in the enjoyment of their rights and privileges.

In the opinion of the convention, merit, not wealth, is the proper qualification for office. If with perfect safety to the people no pecuniary qualification is required for the highest offices under the United States, there is still less reason for requiring it under the government of the State. With the limitation in general that but one important office can be held by one man, all offices are left open to all.

The settlement of our extensive vacant lands has been seriously retarded by the present unequal system of taxation. In the opinion of the convention no good reason exists, why an estate of a given value in uncultivated lands should pay only one-third so much tax, as an estate of the same value in lands under cultivation. It seemed to them not difficult to determine who best deserve the indulgence or patronage of the State, the man who brings forward and cultivates his lands, and renders them productive to the community, or the man who suffers them to remain a useless wilderness, in order that his wealth may be increased by their rise in value, occasioned by the industry and enterprise of contiguous settlements. To remedy the evil, the convention inserted the article requiring that real estate, whether cultivated or uncultivated, shall be equally taxed according to its just value.

The apportionment of Senators and Representatives for the first Legislature, it was apprehended, might not prove perfectly equal. The convention however proceeded upon the best data in their possession, and to them it is a gratifying circumstance, that, if any injustice is done, it can be of but short duration.

An actual census of the people being about to be taken,

the first Legislature will be enabled to remedy such inequalities, as shall be found to exist, and to do exact and impartial justice to every district, town and plantation.

It was not thought advisable by the convention to incumber the constitution by attempts to fix or regulate the salaries of any of your officers. This and many other objects suggested in convention are subjects of legislation and are left to the wisdom of your future legislatures.

Such, fellow citizens, are the principal provisions in the constitution submitted to you by your delegates, which embrace the material variances from the constitution, under which you have so long and so happily lived. We say principal provisions, because there are others, believed to be wholesome and salutary, which however are not deemed of sufficient importance, to be particularly noticed in this address. To the constitution itself we respectfully refer you. We solicit you once more to weigh well its provisions, to examine it as a whole. If it be not perfectly satisfactory in all its parts, judge whether, considering the differences existing in men's views and opinions, you will be likely to obtain one, more acceptable.

Your delegates have felt a deep responsibility; your approbation could not fail to be highly gratifying to them. But they wish not to bias your judgment. You act for yourselves and posterity.

In behalf and by order of the convention.

WM. P. PREBLE,	}	<i>Committee.</i>
GEO. THATCHER, JR.,		
BENJA. AMES,		
JOSHUA GAGE,		
LEONARD JARVIS,		
JOHN BURGIN,		
PETER C. VIRGIN,		
SIMEON STETSON,		
ELEAZAR COBURN.		

ADJOURNED SESSION.

PORTLAND, }
WEDNESDAY, January 5, 1820. }

This being the day to which the convention adjourned, the Honorable President and a quorum of the members of the convention assembled in the Court House in Portland, agreeably to the adjournment.

Mr. William Stevens, returned a delegate from the town of Moscow, appeared and exhibited a certificate in the usual form, of his election ; which was read and there-upon

Resolved, That the said William Stevens is entitled to his seat in this convention.

Mr. Stevens accordingly took his seat.

The Hon Mr. Parris submitted the following resolutions which were severally read and passed :

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 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.

Voted, That said committee consist of nine members : and the Hon. Messrs. Parris of Portland, Thatcher of

Biddeford, Cony of Augusta, Dole of Alna, Col. Pond of Bucksport, Mr. Dickinson of Machias, Mr. Stetson of Hampden, Doct. French of St. Albans, and Mr. Towle of Porter, were appointed said committee.

Resolved, That the committee on returns, report, what number of votes were legally returned, on or before the first day of January instant, and of those so returned, the number in favor and the number opposed to the adoption of the constitution prepared by this convention.

Resolved, That be a committee to consider and report in what manner the adoption of the constitution, as well as our admission into the Union, if that be effected, should be announced to the people of Maine.

Voted, That said committee consist of five members. and that Col. Lewis of Gorham, Judge Ames, Mr. Campbell of Winthrop, Col. Atherton and Mr. Vance be said committee.

On motion of Judge Cony,

Resolved, That Mr. Preble of Portland, Col. Moody, Gen'l Chandler, Dr. Rose, and Mr. Johnson of Belfast, be a committee to consider and report what business it will be proper to act upon before the convention separate.

On motion of Gen. Chandler,

Resolved, That a committee be appointed to inquire into the expediency of furnishing each town and plantation in the District of Maine, with blank forms and returns of votes for Governor, Senators and Representatives, which may be given in on the first Monday of April, 1820, and report by resolve or otherwise.

Mr. Wood, of Lebanon, Mr. Allen, of Norridgewock, Col. Foxcroft, Mr. Cutler of Farmington, and Dr. Snow, of Atkinson, were appointed said committee.

On motion of Col. Atherton,

Resolved, That the honorable Asa Clapp, Matthew Cobb, Isaac Ilsley, Arthur McLellan, Barrett Potter, Robert Ilsley and Levi Cutter, Esq'rs, 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, 1820.

Voted, That when the convention adjourn, it be until 10 o'clock to-morrow morning.

Adjourned accordingly.

THURSDAY, JANUARY 6, 1820.

Met according to adjournment.

Judge 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 to the service assigned them, made the following

REPORT:

That the whole number of votes legally and seasonably returned, is 9837, of which 9040 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 10,025 were in favor of said constitution, and 873 were opposed.

And the committee further report that the returns from the towns of Biddeford in the county of York, and Bingham in the county of Somerset, were signed by one only of the Selectmen in each town; and that the return from the town of Columbia, in the county of Washington, was not signed by the Town Clerk. And the committee do further report, that the returns from the towns of Cornish and Limington, in the county of York; Minot, in the county of Cumberland; Friendship, Hope, Cushing and Appleton plantation, in the county of Lincoln; Monroe, Eden and Trenton, in the county of Hancock; Cherryfield, in the county of Washington; Hallowell, Chesterville, Readfield, Malta and Joy, in the county of Kennebec; Turner, in the county of Oxford; New Vineyard, Fairfield, New Portland and Warsaw, in the county

of Somerset; New Charleston, Foxcroft and Atkinson, in the county of Penobscot, were not returned until after the first day of January, 1820; all which is fully explained in the annexed schedule which makes a part of this report.

And the committee further report that by the return from the town of Bucksport, in the county of Hancock, although there appears to have been a meeting duly holden, and the return is duly signed and attested by the Selectmen and Town Clerk, yet it does not appear that any votes were given by the inhabitants of said town either in favor or against said constitution.

All which is submitted.

ALBION K. PARRIS, *Per Order.*

IN CONVENTION, January 6, 1820.

Read and accepted, and ordered that the report and schedule annexed, be entered upon the journals.

WILLIAM KING, *President.*

YORK COUNTY.

TOWNS.	ACCEPTED.			REJECTED.		
	Whole number.	Yeas.	Nays.	Whole number.	Yeas.	Nays.
Alfred, . . .						
Arundel, . . .	52	52				
Biddeford, . . .	- -	- -	- -	* 22	20	2
Berwick, . . .	41	41				
Buxton, . . .	124	112	12			
Cornish, . . .	- -	- -	- -	† 40	25	15
Elliot, . . .	52	51	1			
Hollis, . . .	71	71				
Kittery, . . .	31	10	21			
Lebanon, . . .	109	106	3			
Limerick, . . .	58	57	1			
Limington, . . .	- -	- -	- -	† 73	73	
Lyman, . . .	86	49	37			
Newfield, . . .	30	17	13			
Parsonsfeld, . . .	107	107				
Sanford, . . .	95	10	85			
Saco, . . .	103	103				
Shapleigh, . . .	157	25	132			
South Berwick, . . .	47	36	11			
Waterborough, . . .						
Wells, . . .	157	156	1			
York, . . .	91	91				
	1411	1094	317	135	118	17

CAUSE OF REJECTION.

* The return being signed by only one Selectman.

† Not returned until after January 1, 1820.

CUMBERLAND COUNTY.

TOWNS.	ACCEPTED.			REJECTED.		
	Whole number.	Yeas.	Nays.	Whole number.	Yeas.	Nays.
Baldwin, . .	30	30				
Bridgton, . .	78	78				
Brunswick, . .	90	88	2			
Cape Elizabeth, .	44	44				
Danville, . .	44	44				
Durham, . .	64	58	6			
Falmouth, . .	58	58				
Freeport, . .	103	77	26			
Gorham, . .	95	94	1			
Gray, . .	87	86	1			
Harrison, . .	19	19				
Harpswell, . .	18	10	8			
Minot, . .	--	--	--	* 70	57	13
North Yarmouth, .	169	115	54			
New Gloucester, .	119	118	1			
Otisfield, . .	31	26	5			
Portland, . .	298	286	12			
Poland, . .	96	94	2			
Pownal, . .	40	40				
Raymond, . .	58	52	6			
Scarborough, . .	69	66	3			
Standish, . .	68	57	11			
Westbrook, . .	75	74	1			
Windham, . .	61	61				
	1814	1675	139	70	57	13

CAUSE OF REJECTION.

* Not returned until after January 1, 1820.

TOWNS.

TOWNS.	ACCEPTED.			REJECTED.		
	Whole number.	Years.	Nays.	Whole number.	Years.	Nays.
Alna,	25	18	7			
Bath,	112	111	1			
Boothbay, . . .	38	38				
Bowdoin, . . .	80	80				
Bowdoinham, . .	46	46				
Bristol,	66	64	2			
Camden,	63	59	4			
Cushing,	- -	- -	- -	* 18	18	
Dresden,	28	28				
Edgecomb, . . .	32	32				
Friendship, . . .	- -	- -	- -	* 22	22	
Georgetown, . .	37	36	1			
Hope,	- -	- -	- -	* 52	52	
Jefferson, . . .	64	52	12			
Lewiston,	67	66	1			
Lisbon,	104	103	1			
Litchfield, . . .	86	84	2			
Montville, . . .	53	53				
Montville Plantation,	21	20	1			
New Castle, . . .	42	36	6			
Nobleborough, . .	49	49				
Palermo,	48	48				
Phippsburg, . . .	33	33				
Putnam,	18	18				
St. George, . . .	23	23				
Topsham,	61	61				
Thomaston, . . .	74	74				
Union,	54	49	4			
Warren,	42	35	7			
Waldoborough, . .	35	33	2			
Whitefield, . . .	42	42				
Wales,	14	14				
Wiscasset, . . .	57	52	5			
Woolwich,	39	39				
Appleton Plantation,	- -	- -	- -	* 18	18	
CAUSE OF REJECTION. *Not returned until after January 1, 1820.	1553	1496	56	110	110	

HANCOCK COUNTY.

TOWNS.	ACCEPTED.			REJECTED.		
	Whole number.	Years.	Nays.	Whole number.	Years.	Nays.
Belfast, . . .	71	59	12			
Belmont, . . .	61	61				
Bluehill, . . .	46	9	37			
Brooks, . . .	24	23	1			
Brooksville, . . .	18	7	11			
Bucksport, . . .						
Castine, . . .	33	29	4			
Deer Isle, . . .	23	22	1			
Eden, . . .	- -	- -	- -	* 18	18	
Ellsworth, . . .	25	24	1			
Frankfort, . . .	60	59	1			
Gouldsborough, . . .	14	14				
Isleborough, . . .	11	10	1			
Jackson, . . .	14	14				
Knox, . . .	30	30				
Lincolnvile, . . .	64	62	2			
Monroe, . . .	- -	- -	- -	* 34	33	1
Mount Desert, . . .						
Northport, . . .	13	13				
Orland, . . .	22	22				
Prospect, . . .	20	20				
Penobscot, . . .	32	32				
Searsmont, . . .	22	22				
Swanville, . . .	21	21				
Sedgwick, . . .	47	23	24			
Sullivan, . . .	30	29	1			
Surry, . . .	30	30				
Trenton, . . .	- -	- -	- -	* 22	22	
Thorndike, . . .	21	21				
Vinalhaven, . . .	32	30	2			
CAUSE OF REJECTION. *Not returned until after January 1, 1820.	784	686	98	74	73	1

WASHINGTON COUNTY.

TOWNS.	ACCEPTED.			REJECTED.		
	Whole number.	Yeas.	Nays.	Whole number.	Yeas.	Nays.
Addison, . . .						
Calais, . . .	17	17				
Cherryfield, . . .	--	--	--	* 14	14	
Columbia, . . .	--	--	--	† 20	9	11
Dennysville, . . .						
Eastport, . . .	40	38	2			
Harrington, . . .	14	12	2			
Jonesborough, . . .	22	22				
Lubec, . . .	44	44				
Machias, . . .	38	38				
Orangetown, . . .	8	8				
Perry, . . .						
Robbinstown, . . .	20	20				
Steuben, . . .						
	203	199	4	34	23	11

CAUSE OF REJECTION.

* Not returned until after January 1, 1820.

† Return not signed by Town Clerk.

KENNEBEC COUNTY.

TOWNS.	ACCEPTED.			REJECTED.		
	Whole number.	Yeas.	Nays.	Whole number.	Yeas.	Nays.
Augusta, . . .	81	80	1			
Belgrade, . . .	30	28	2			
Chester ville, . . .	--	--	--	* 46	38	8
China, . . .						
Clinton, . . .	40	39	1			
Dearborn, . . .	28	28				
Fairfax, . . .	26	26				
Fayette, . . .	70	66	4			
Farmington, . . .	105	105				
Freedom, . . .						
Gardiner, . . .	54	54				
Greene, . . .	70	70				
Hallowell, . . .	--	--	--	* 145	142	3
Harlem, . . .	34	33	1			
Joy, . . .	--	--	--	* 28	28	
Kingfield, . . .	24	23	1			
Leeds, . . .	93	93				
Malta, . . .	--	--	--	* 40	40	
Monmouth, . . .	98	98				
Mount Vernon, . . .	70	70				
New Sharon, . . .	55	53	2			
Pittstown, . . .	28	20	8			
Readfield, . . .	--	--	--	* 70	70	
Rome, . . .	25	24	1			
Sidney, . . .	74	73	1			
Temple, . . .	24	23	1			
Unity, . . .	44	43	1			
Vienna, . . .	32	32				
Vassalborough, . . .	50	50				
Wayne, . . .	69	68	1			
Winslow, . . .	31	31				
Waterville, . . .	110	110				
Wilton, . . .	62	62				
Winthrop, . . .	82	64	18			
CAUSE OF REJECTION.				1509	1466	43
*Not returned until after January 1, 1820.				329	318	11

OXFORD COUNTY.

TOWNS.	ACCEPTED.			REJECTED.		
	Whole number.	Yeas.	Nays.	Whole number.	Yeas.	Nays.
Albany, . . .	21	5	16			
Bethel, . . .	85	85				
Brownfield, . . .	58	57	1			
Buckfield, . . .	149	146	3			
Dixfield, . . .	29	27	2			
Denmark, . . .						
East Andover, . . .	41	32	9			
Fryeburg, . . .	73	73				
Gilead, . . .	23	23				
Greenwood, . . .	21	21				
Hiram, . . .	29	28	1			
Hartford, . . .	68	68				
Hebron, . . .	73	70	3			
Jay, . . .	75	72	3			
Livermore, . . .	73	71	2			
Lovel, . . .						
Mexico, . . .	12	12				
Newry, . . .	34	34				
Norway, . . .	77	76	1			
Paris, . . .	106	89	17			
Porter, . . .	37	36	1			
Rumford, . . .	52	52				
Sweden, . . .	20	20				
Sumner, . . .	52	48	4			
Turner, . . .	--	--	--	* 88	88	
Waterford, . . .	58	35	23			
Weld, . . .	37	37				
Woodstock, . . .	29	27	2			
Plantation No. 1, .	18	18				
	1350	1262	88	88	88	

CAUSE OF REJECTION.

* Not returned until after January 1, 1820.

SOMERSET COUNTY.

TOWNS.	ACCEPTED.			REJECTED.		
	Whole number.	Yeas.	Nays.	Whole number.	Yeas.	Nays.
Anson, . . .	70	70				
Athens, . . .	29	24	5			
Avon, . . .	28	28				
Bloomfield, . . .	52	50	2			
Bingham, . . .	--	--	--	* 7	7	
Canaan, . . .	40	40				
Corinna, . . .	25	25				
Cornville, . . .	27	27				
Embden, . . .	15	14	1			
Fairfield, . . .	--	--	--	† 71	67	4
Freeman, . . .	22	13	9			
Harmony, . . .						
Industry, . . .	29	29				
Mercer, . . .	31	23	8			
Madison, . . .	33	32	1			
Moscow, . . .						
Norridgewock, . . .	66	66				
New Portland, . . .	--	--	--	† 24	9	15
New Vineyard, . . .	--	--	--	† 26	21	5
North Hill, . . .						
Palmyra, . . .	27	27				
Phillips, . . .	11	11				
Ripley, . . .	34	34				
Starks, . . .	39	38	1			
St. Albans, . . .	22	22				
Solon, . . .	33	33				
Strong, . . .	20	20				
Warsaw, . . .	--	--	--	† 19	19	
	653	626	27	147	123	24

CAUSE OF REJECTION.

* Return signed by only one Selectman.

† Not returned until after January 1, 1820.

PENOBSCOT COUNTY.

TOWNS.	ACCEPTED.			REJECTED.		
	Whole number.	Yeas.	Nays.	Whole number.	Yeas.	Nays.
Atkinson, . . .	--	--	--	* 22	22	
Bangor, . . .	51	47	4			
Brewer, . . .	42	31	11			
Carmel, . . .	12	12				
Corinth, . . .	18	18				
Dixmont, . . .	28	23	5			
Dexter, . . .	41	41				
Exeter, . . .	27	27				
Eddington, . . .	20	20				
Foxcroft, . . .	--	--	--	* 25	25	
Garland, . . .	16	16				
Guilford, . . .	27	27				
Hermon, . . .	16	16				
Hampden, . . .	36	36				
Levant, . . .	6	6				
Newburg, . . .	22	21	1			
Newport, . . .	28	28				
New Charleston, . . .	--	--	--	* 28	28	
Orono, . . .	25	25				
Orrington, . . .	58	58				
Sangerville, . . .	17	17				
Sebec, . . .	23	23				
Plantation No. 3, R. 6,	20	20				
Plantation No. 1, R. 3,	14	14				
Williamsburg Pl.,	13	10	3			
	560	536	24	75	75	

CAUSE OF REJECTION.

* Not returned until after January 1, 1820.

RECAPITULATION.

AGGREGATE OF VOTES LEGALLY RETURNED.

COUNTIES.	ACCEPTED.			REJECTED.		
	Whole number.	Yeas.	Nays.	Whole number.	Yeas.	Nays.
York, . . .	1,411	1,094	317	135	118	17
Cumberland,	1,814	1,675	139	70	57	13
Lincoln, . .	1,553	1,496	56	110	110	—
Hancock, . .	784	686	98	74	73	1
Washington,	203	199	4	34	23	11
Kennebec, . .	1,509	1,466	43	329	318	11
Oxford, . . .	1,350	1,262	88	88	88	—
Somerset, . .	653	626	27	147	123	24
Penobscot, . .	560	536	24	75	75	—
	9,837	9,040	796	1,062	985	77

IN COMMITTEE, January 6, 1820. The foregoing is a true list of all the votes given on the adoption of the Constitution of Maine.

ALBION K. PARRIS, *Per Order.*

Attest: ROBERT C. VOSE, *Secretary.*

Which report was read and accepted, and ordered to be entered with the special part of this report and schedule hereunto annexed, upon the journals of this convention.

Mr. Preble, chairman of the committee to whom was referred the subject of what business it will be necessary to act upon before the convention separate, having attended to the duty assigned them, made the following

REPORT :

That in addition to the several subjects already committed to special committees, the committee submitted for the consideration of the convention, the following resolutions, which were severally read and passed :

Resolved, That the Treasurer of this Convention be and he hereby is authorized to borrow, on the credit of the State of Maine, the sum of \$4000, to defray the expenditures of this 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, of Portland, and Mr. Gage of Augusta, were appointed on the said committee.

Resolved, That be a committee on the Pay Roll, and that they be instructed to make up the Pay Roll, including to-morrow.

Gen. Irish, Col. Lewis, and Mr. Dearborn, of Hallowell, were appointed on the 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 directed 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.

Resolved, That this day at half-past 3 o'clock be assigned for designating by ballot, the 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 this constitution of Maine, shall have all the powers and perform all the duties which the President of this convention shall have and perform.

Resolved, That this day at half-past 3 o'clock be assigned for designating by ballot, the person who in case of the death or other disqualification of the Secretary of State *pro tempore*, before the election and qualification of the Secretary of State, under the constitution of Maine, shall have and perform all the powers and duties of Secretary *pro tempore*.

Resolved, That this day at half-past 3 o'clock be assigned for electing by ballot, some suitable 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.

Gen. Wingate, was appointed on the committee on the subject of the expenses of the convention, exclusive of the pay roll, in the absence of Mr. Shepley of Saco.

Adjourned to half-past 3 o'clock this afternoon.

AFTERNOON.

Met. 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 given was 168 ; necessary to a choice, 85 ; and that the Hon. John Chandler had 110 votes, and he was declared elected. The same committee was then appointed to receive, count and sort the votes for the person who, in case of the death or other disqualification of the Secretary *pro tempore*, before the election and qualification of Secretary of State under the constitution of Maine, shall have and perform the powers and duties of Secretary of State *pro tempore* ; when it appeared that the whole number of votes given was one hundred and seventy-four ; necessary to a choice, eighty-eight ; and that Robert C. Vose had one hundred and seventy-two votes, and he was declared chosen.

Col. Lewis, chairman of the committee appointed to consider and report in what manner the adoption of the constitution shall be announced to the people of Maine, submitted the following resolution, which was read and accepted as amended.

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 the district of 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.

Mr. Wood of Lebanon, chairman of the committee on the subject of returns for Governor, Senators and Representatives, made the following Report :

No. 1, return of votes for Governor ; No. 2, return of votes for Senators ; No. 3, return of votes for Representatives ; and that the Secretary of this convention be requested to superintend the printing and furnishing the selectmen of all the towns, and the assessors of all the plantations in the State of Maine, with a suitable number of the same ; which report was read and accepted.

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 honorable 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 138 ; necessary to a choice, seventy ; 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.

Col. Lewis was excused from serving on the committee upon the pay roll, and Col. Atherton was appointed in his stead.

Judge Thatcher submitted the following resolution :

Resolved, That four attested copies of the constitution of the State of Maine, together with an attested copy of the report of the committee appointed to examine the returns of the votes from the several towns and planta-

tions in Maine, on the constitution proposed to the people by this convention, be transmitted to the Supreme Executive of the Commonwealth of Massachusetts, and like copies be delivered by the Secretary of State to the Supreme Executive of the State of Maine, as soon as the government thereof shall be organized; and the same was read and committed to Mr. Moody of Hallowell, Dr. Chandler of Parris, Mr. Burr of Litchfield, Mr. Jarvis of Surry, and Major Treat, to consider and report.

Voted, That when the convention adjourn, it be until 10 o'clock to-morrow morning.

Adjourned accordingly.

FRIDAY, JANUARY 7, 1820.

Met according to adjournment.

Gen. Wingate, Chairman of the committee appointed to examine the books, accounts and vouchers of the treasurer, submitted the following report : That it appears by the accounts presented to the committee, by the Hon. Albion K. Parris, Treasurer of this Convention, accompanying this report, he has received the sum of \$19,742.12 ; 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, leaving a balance in the hands of the Treasurer, of \$2959.83, to be applied in part payment of the expenses of the present session of the Convention. The Pay Roll of 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 this Convention ; which report and resolutions were severally read and accepted.

The returns of votes from the town of Steuben upon the question of the constitution was this day received by the Hon. President, and by him communicated to the convention, whereby it appeared that the inhabitants of said town gave in seventeen votes in favor of the constitution and none against it.

Ordered, That said return be placed on file.

Gen Irish, chairman of the committee upon the pay roll, made a report, by which it appeared that the amount of travel and attendance due the several members the present session, amounting in the whole to the sum of \$4216, which was read, and

Ordered, That the Treasurer of this Convention be authorized to pay the several persons borne on the pay roll, the sums set against their names respectively.

Hon. Mr. Gage, chairman of the committee on accounts, made a report that the sums set against the names of the following persons, to wit: to

Francis Douglass, for printing,	\$178 20
Christopher Rand, for sundry expenses,	42 26
Aaron Chamberlain,	15 25
Robert C. Vose, Secretary, for services and expenses,	118 20
William B. Peters, Sergeant-at-Arms,	6 00
Thomas Bailey,	6 00
N. G. Jewett, a Clerk in the lobbies,	6 00
Robert Ilsley, Post Master,	11 39½
	<hr/>
	\$383 30½

Which report was read, and

Ordered, That the Treasurer pay the several persons borne on this roll, the sums set against their names respectively, in full for their services.

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 the reports of the committee appointed to examine the return 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 honorable Judge Thacher read in his place the following resolution:

Resolved unanimously, that the thanks of this Convention be presented to the Honorable William King, for the dignified and impartial manner with which he has discharged the duties of the chair during our deliberations; which resolution was again read by the Secretary, and unanimously adopted.

The honorable 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 have 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 time, but the regard of posterity.

The business of the Convention being completed, on motion of the Hon. Judge Cony,

Voted, That the convention adjourn without day.

Adjourned accordingly.

ATTEST:—R. C. VOSE, *Secretary*.

THE BRUNSWICK CONVENTION OF 1816.

MINUTES TAKEN AND PRESERVED BY WILLIAM ALLEN, JR.,
A MEMBER OF THE CONVENTION.*

On the petition of William King and others, the General Court of Massachusetts at the May session in 1816 passed an act authorizing the qualified voters in the District of Maine to meet in their respective towns on the first Monday in September of that year, and give in their votes for or against the separation of Maine from Massachusetts, and authorizing all the towns in Maine entitled to representatives to elect delegates to meet at Brunswick, to examine the returns of the votes ; and if the number of votes was found to be as five is to four in favor of separation the delegates were to prepare a constitution for the new state to be submitted to the people for their approval.

The political lines of parties in Maine were well defined ; one-third of the voters were known as Federalists and two thirds were Democrats.

The canvass during the summer was conducted with much spirit and the meetings in the several towns and plantations were holden as directed, and a full vote given in and delegates elected who with few exceptions met at the time and place of meeting designated, at Brunswick on the last Monday of September of that year.

* Copied from the collections of the Maine Historical Society, Second series, Vol. II, 1891.

Having been a member of that convention and witnessed the proceedings, and having taken and preserved some minutes thereof, and having been requested by a worthy member of the Maine Historical Society (recently deceased) to furnish a sketch thereof for the benefit of that Society, I submit the same and rely on the candor of my friends to excuse all imperfections, as I am far advanced in life and am not able to do justice to the case.*

Monday, September 29. The convention met at the meeting-house at ten o'clock. The leading members delayed organizing, and opportunity was given for the two parties to ascertain their strength and to make arrangements for the occasion. Lists of the votes had been published in the public papers, and the names of delegates and their character, and it was generally conceded that the required number of votes in favor of separation had not been obtained. Democrats were generally in favor of separation; some twelve or fifteen delegates were opposed to it, as were the Federalists generally, excepting six or seven.

Those opposed met at Eastman's hall and chose Colonel Lewis of Gorham as chairman of their caucus, who presided at all their party meetings with ability during the session of the convention.

* NORRIDGEWOCK, MARCH, 1870.

REV. EDWARD BALLARD, *Secretary of Maine Historical Society*:
REV. SIR:— On seeing notice of the death of Hon. William Willis, a worthy patron of said Society, recently, I was reminded of a request made by him for me to furnish him with an account of the proceedings of the Brunswick convention of 1816 from the minutes I took at the time, and papers in my possession for the Society.

I therefore send the same to you in the package herewith, to be disposed of as you see fit or destroyed.

Very respectfully yours,

WILLIAM ALLEN.

A committee was appointed to ascertain the relative standing of the parties, who reported that as near as could be ascertained two hundred delegates had been elected; that a majority of twelve at least were for separation.

On returning to the meeting-house Judge Widgery of Portland was designated to call the convention to order, but he did not seem to know how to do it. All seemed to be at a loss and discussion ensued and nothing was done during the forenoon. Dinner being announced the convention adjourned till two o'clock P. M.

In the afternoon many fears were expressed by the leaders of the Democrats that persons not entitled to vote might intrude themselves improperly, as a noted Federal lawyer (B. Orr) was in the house taking notes, as Burns says, "and he may print them."

After some debate a committee of nine, Preble, Cobb, Thompson, Herbert, Parris, Allen, Kinsley, Cooper and Davis, were appointed to prepare a list of delegates. Questions were then started about instructions to the committee. It was generally urged that they need not be bound to observe any special form of certificate of election.

Judge Widgery suggested that some certificates might not be signed by the town clerk, what then?

Captain Tolman replied, "Those would be like the old woman's tub that had no bottom, who said 'it was no tub at all.'"

After an hour's idle debate the committee were allowed to retire, but seven of the nine declined acting until abstract questions were debated and certain rules adopted.

Mr. Parris remarked that the question proposed was of no consequence. Allen concurred and stated that the discussion was an idle waste of time, that he and Mr. Parris had nearly completed a list of delegates for these

counties which required no discussion. But when he observed Mr. Cobb, an executive councillor, among the disputants, he was somewhat abashed. In a short time we were notified that the House had adjourned. I was satisfied that delay was the only object.

Tuesday, September 30. The absent members nearly all came in and light broke in and General King was chosen president forthwith, and a secretary chosen. Returns of votes were called for by counties and the result in each town announced by the chair. Mr. Preble and other Democratic members took it upon them to collect and hand in the returns in favor of separation, as they had a right to do for their friends. When the returns from Somerset were called for I collected all, both for and against, and among others the returns from Phillips and Avon, nearly unanimous for separation, were handed to me by a friend who had been entrusted with them, being known as in favor of separation. I was not known by Preble, and he, being on the watch, immediately inquired of my friend as to the completion of the returns he had delivered to me and what my views were. On being informed that the returns were for separation, but that I was opposed to it, Preble reprimanded my good friend with severity for what he had done, saying that "those returns would be withheld or destroyed."

In the course of the day all the returns were accounted for except for five or six towns, among them the town of Lyman, in which six only were in favor and one hundred and seventy-nine votes against separation. The return was traced into two or three hands and lost in the fog. Preble was challenged and denied that he had it. I thought he equivocated, and as he had suggested that I ought not to be trusted, I thought of the motto attached to the sign of the Order of the Garter, "Evil to him who

evil thinks." When a committee was appointed the next day to make search for returns that were missing, I kept my eye on him until I saw him pass that from Lyman to a respectable clergyman, a member from the county of York, behind the corner of the meeting-house as we were coming in at the afternoon session, and whisper a verbal message to him. I followed the bearer in and saw him lay the return on the secretary's table without any ceremony. When the convention was called to order the secretary passed the document to the president and said he found it on his table, and did not know how it came there. The contents were announced and the return passed to the committee; but this was not the end of it. It was rejected by the committee—a committee of Hill, Davis and Woodman to inquire about missing returns.

The returns from Eliot and Frankfort were traced to A, and from A to B, and B to C, and were probably tried by fire and lost.

A committee of nine was appointed on Wednesday, October 1, as stated in the printed sheet annexed, and but little was done during the remainder of the week. The convention waited impatiently for the report of the committee on the returns, adjourning from day to day till Saturday noon and then adjourned to eleven o'clock A.M., on Monday, when the committee came in with a long report, as per manuscript annexed, and thereon a debate ensued on Tuesday, opened by Josiah Mitchell in opposition to the report as follows:—

"I am opposed to the acceptance of this report. I can see no ambiguity in the act authorizing the people of Maine to vote on the question of separation; that from a clear and fair construction of this act the vote for separation has not been obtained."

He proceeded at length in opposition to the report.

Judge Weston said he was in favor of accepting the

report of the committee; that their construction of the act was plausible and specious if not correct, but did not manifest entire confidence in it.

Mr. Emery of Portland was in favor of separation, but could not vote for this report. "If," said he, "we adopt the resolution in the report which states that a majority of five to four is obtained, we assert an untruth. It is a palpable falsehood. In regard to an adjournment of the convention I see no reason why we should not, but I object to the manner in which the recourse is to be had to Massachusetts.

"Is it not possible that a better course may be devised? For my part I think we should be much more likely to obtain our object respectfully to ask for an amendment of the act, than to demand it, saying if you don't grant our request we will put our own construction on it. I appeal to those whose sacred duty it is to inculcate the word of truth. I appeal to the judges whose duty it is to expound the law. I appeal to the sober, honest part of this assembly, who are not infatuated with ambitious projects to say whether by adopting this report they will not adopt a deliberate lie."

John Davis: "If the gentleman last up would recur to the report, I think he would discover a mistake and that the words '*the majority of*' are not surplusage."

Mr. Adams was opposed to the report.

Mr. Parris argued in favor of it.

Mr. Holmes: "I assure the gentleman from Portland that the aspersions thrown on the committee by him are gross and malignant, and whoever charges me with uttering a deliberate lie I shall be far from treating with the most profound respect."

Judge Perham avowed the correctness of his motives.

Mr. Abbott, although a member of the committee, was not in favor of the report; thought the returns generally

contain sufficient matter for forming an opinion as to the number of votes given in each town.

Mr. Kinsley and Judge Perham sustained the report.

Colonel Thacher opposed it sarcastically.

Judge Whitman, although in favor of separation, was opposed to the report.

John Low of Lyman : "I object to the acceptance of the report, as it respects the votes from Lyman, and move that the yeas and nays may be recorded when the question is taken."

October 7. Col. Lewis moved that the report be amended by adding the Lyman votes to the list.

Mr. Moody objected that the motion was not in order.

The president decided that the motion of Colonel Lewis was in order.

Mr. Lewis' motion to add the Lyman votes to the list was decided in the negative and the House adjourned.

Tuesday, October 8. Kinsley inquired if the report had not been accepted, and whether the motion was in order.

Holmes thought it was strictly in order, it being an amendment of the report.

Chandler inquired whether the gentleman by this vote was to establish the return to be correct, or only to place it on the list with the others?

Colonel Lewis only wished to place the list on a footing with the others, without regard to the formality of the return, which may hereafter be inquired into.

Judge Widgery was decidedly opposed to the votes being restored, and was sure it would make no difference in the result ; thought that the proceedings of the town of Lyman were an outrage on common decency, and the depositions show it, and called for reading of them.

Captain Ladd objected as they were *ex parte*, and expressed his contempt of the course pursued.

Holmes explained that the committee decided from other evidence.

Moody called for reading the remonstrance of John Low, jr., and others.

J. Low called for reading the statement of the selectmen of Lyman.

Judge Stebbins called for the evidence on which these votes were rejected. This convention had a right to the evidence, and ought not to proceed without it.

Mr. Holmes said the evidence was contained in two depositions and statements of the members from Lyman. "Every honorable member," he said, "ought to be satisfied with the evidence given. As we are about forming a new state, one of the first things ought to be to resist encroachments on the freedom of elections. I am confident the statements of the memorialists are not false, but substantially correct."

Judge Whitman remarked that "although some irregularity existed at the opening of the meeting, nothing appears to have been incorrect when the votes were given in, and that they ought not to be rejected. If the town officers have been guilty of any crime let them be punished, and not punish the innocent inhabitants by depriving them of their votes on this important occasion."

Colonel Thatcher called the attention of the convention to the authority by which they were deliberating. That the power is not given them to judge of the conduct of individuals. "We are authorized to ascertain the number of votes returned according to the provisions of the act, and not to investigate the organization of towns or corporations, or the manner in which town meetings are usually conducted. He had heard much said about voting

and votes written on birch bark ; about blue paper and white paper ; all this is nothing to the purpose. If the return is properly made no reason has been offered why the votes should not be received ”

The vote was then taken on the question. Yeas, eighty-one ; nays, ninety-seven, and adjourned.

Wednesday, October 9. Mr. Holmes moved to amend the report by striking out the words, “might admit.” We should adopt such measures as “might be proper and expedient.”

Davis moved to restore the votes of Lyman.

Holmes moved that it be laid on the table, and referred to the adjourned meeting of the convention.

Wallingford asked for information, etc.

Herbert hoped it would not be postponed.

Parris had no inclination to call up the question which had been once satisfactorily decided, but was willing the same should be referred.

Davis’ motion laid on the table.

In regard to the amendment proposed by Mr. Holmes, Judge Whitman remarked that he was happy to see what he termed a project to correct sentiments ; but called the gentleman to order in regard to numbers, and also to the substance of his amendment which goes to alter a material part.

Amendment ordered.

On motion,

Ordered, That the blank in the resolution concerning adjournment of the convention be filled with the third Tuesday of December next.

On motion of Mr. Whitman,

Ordered, That the secretary of this convention be directed to forward to the secretary of this commonwealth an attested copy of the proceedings of said convention.

Ordered, That the committee for reporting a constitu-

tion consist of twenty-five, and Messrs. Holmes, Dunn, Bodwell, Hobbs, Widgery, Foxcroft, Ingalls, Spring, Dawes, Thompson (Lisbon), Neal, Burley, Chandler (Monmouth), Davis, Cushman, Bond, Weston, Prescott, Hooper, Turner, Steel, Moore, W. Allen, Merriam, Kinsley and Leavitt were appointed.

Messrs. Holmes, Chandler and King were appointed a committee to make applications to Congress.

Messrs. Davis (Augusta), Chandler and Preble, a committee to address the Legislature.

The committee appointed to inquire about the Eliot votes and those of other towns missing made a report.

On motion of Mr. Whitman the report was indefinitely postponed.

Judge Stebbins presented and read a protest signed by the minority against the proceedings of this convention, and moved that it be entered on the journals. After some opposition it was voted that it be inserted.

The business of the convention having been accomplished, a motion was made to adjourn, and the convention was adjourned to the third Tuesday of December next, then to meet at this place at two o'clock P. M.

The committee on return of votes, appointed on the second day of the session, consisted of Messrs. Holmes, Preble, Widgery, Foxcroft, Sewall, Barnard, Abbott, Perry, Parris, Rice and J. Davis, Chandler of Monmouth, and Waugh, who reported October 9, and the report was assigned to be taken up the next morning at nine o'clock, and the same was taken up accordingly, and after a warm discussion protracted to a late hour in the evening, when the question of acceptance was taken by yeas and nays and decided in the affirmative. Yeas, one hundred and three; nays, eighty-four; absent, six.

For accepting the report, yeas: Widgery and Hall of Portland, Ingalls of Bridgton, Page of Brunswick, Higgins of Cape Elizabeth, Sanborn of Falmouth, Whitney of Gray, Foxcroft of New Gloucester, Twitchell of Poland, Cushman of Pownal, Swett of Raymond, Larrabee and Fogg of Scarboro, Spring and Hasty of Standish, Stermons and Estes of Westbrook, Porter of Baldwin, Holmes of Alfred, Prime and Cutts of Berwick, Boothby, Woodman and Wentworth of Buxton, Dunn of Cornish, Smith and Locke of Hollis, Dennett and Chase of Kittery, Boyd of Limington, Buzzell of Parsonsfield, Allen of Sanford, Moody, Pike and Preble of Saco, Bodwell, Wood and Emery of Shapleigh, Sever of South Berwick, Hobbs of Waterboro, Bradbury, McIntire and Bragdon of York, W. King, Eaton of Bowdoin, Lewis of Georgetown, Noel and Burr of Litchfield, Thompson and Small of Lisbon, Davis of Montville, Rand of Nobleboro, Burley of Palermo, Miller of St. George, Bailey of Whitefield, Richardson of Cushing, Rowell of Jefferson, Weston and Davis of Augusta, Chandler of Belgrade, Wellington of Fairfax, Prescott of Farmington, Fisk of Fayette, Robbins of Greene, Frances of Leeds, Cheever of Hallowell, Chandler and Morrill of Monmouth, McGaffey of Mt. Vernon, Hilton of Malta, Dyer of New Sharon, D. Neal, John Hubbard, R. Burnham, A. Getchell, M. Wing, J. Cushman, J. Randall, M. Weeks, B. Foster, J. Merriam, B. Stevens, B. Bartlett, J. Steel, L. Swallow, E. Berry, J. Ricker, A. K. Parris, J. Hooper, J. Turner, J. Starr, S. Barrett, B. Bradford, W. H. Britton, J. Moore, W. Tuttle, J. Walker, J. Lawrence, J. Leavitt, D. Perham, M. Kinsley, John Wilkins,—one hundred and three.

Nays: E. Whitman, N. Emery, J. Adams, M. Cobb, R. D. Dunning, J. McKean, J. Burnham, L. Lewis, D. Harding, S. Stephenson, J. W. Mitchell, B. Sylvester, S.

Eaton, G. Grosvenor, William Ladd, N. Gould, M. Little, A. R. Mitchell, A. Richardson, E. Russell, W. Barrows, jr., S. Blake, A. R. Giddings, E. Perkins, J. Mitchell, W. Hobbs, D. Cleaves, J. Hill, J. Burnham, J. Low, J. Waterhouse, G. E. Smith, J. Daniel, G. W. Wallingford, N. Morrill, J. Gilman, J. Fisher, J. Stebbins, D. Sewall, J. Hyde, C. Lilly, J. McKown, J. McCobb, W. Chamberlain, T. B. Lewis, J. Thompson, E. Farley, P. Drummond, B. Hasey, W. Dawes, J. Barnard, R. Foster, B. Brown, J. Head, J. G. Read, S. Thatcher, Jere Bailey, D. Quinam, P. Tolman, J. Fairbanks, F. Allen, E. Clark, A. Howard, A. Wood, J. Metcalf, A. Johnson, E. Upton, S. M. Pond, Jos. Lee, W. Abbott, P. Spofford, Geo. Herbert, T. Hill, jr., S. A. Whitney, John Watson, N. Kidder, L. Smith, J. Simpson, Thomas Burr ridge, S. A. Bradley, W. Barrows, Levi Whitman, P. C. Virgin, E. Rice, B. McLellan, Wm. Allen, James Waugh, John Cooper, — eighty-four.

The report as first accepted, was copied at the time and sent to my friends, and is herewith forwarded, also some memoranda, showing the names of the delegates and state of the votes as they were announced.

WILLIAM ALLEN.

NORRIDGEWOCK, MARCH, 1870.

CONSTITUTION
OF THE
STATE OF MAINE,
FORMED IN

CONVENTION, OCTOBER 29, AND ADOPTED BY
THE PEOPLE IN TOWN MEETINGS,
DECEMBER 6, A. D., 1819 ;

Together with the XXI Amendments subsequently made thereto, arranged as amended, in pursuance of a Legislative Resolve of February 24, 1875, by the Chief Justice of the Supreme Judicial Court, (the HONORABLE JOHN APPLETON,) whose draft and arrangement was, by a Resolve of February 23, 1876, approved by the Legislature, and ordered to be enrolled on parchment and to be deposited in the office of the Secretary of State, as "the supreme law of the State;" and with the Amendments adopted since the last named date.

[NOTE.—By Resolve of January 12, 1875, Governor Dingley was authorized to appoint a Commission of ten persons, "to consider and frame such amendments to the Constitution of Maine as may seem necessary, to be reported to the Legislature;" and Edward Kent, William P. Haines, George F. Talbot, William M. Rust, Henry E. Robins, Washington Gilbert, James C. Madigan, Artemas Libbey, Frederick A. Pike, and William K. Kimball, were appointed. Nine of the amendments reported

by the Commission, viz :—in relation to (XIII) Election of Senators by Plurality vote; (XIV) Special Legislation and Corporations; (XV) Power of Governor to Pardon; (XVI) Appointment of Judges of Municipal and Police Courts; (XVII) Taxation; (XVIII) Abolishing the Land Agency; (XIX) Constitutional Conventions; (XX) Bribery at Elections; (XXI) Codification of the Amended Constitution; were submitted to the people by a Resolve of February 24, 1875, and adopted at the annual election, September 13, 1875.]

PREAMBLE.

We, the people of Maine, in order to establish justice, insure 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.¹

ARTICLE I.

DECLARATION OF RIGHTS.

SECTION 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.²

¹ 33 Maine, 283; 58 Maine, 607, 612.

² See amendment, XXII. 2 Maine, 275; 6 Maine, 412; 27 Maine, 212; 33 Maine, 283, 558; 58 Maine, 594, 598, 613; 59 Maine, 318, 345, 549, 553; 60 Maine, 122, 133; 66 Maine, 73. For juridical reference to Sec. 3, this Article, see 38 Maine, 379.

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 religious 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.³

SEC. 5. The people shall be secure in their persons, houses, papers and possessions from all unreasonable searches and seizures; and no warrant to search any place, or seize any person or thing, shall issue without a 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.⁴

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;⁵

To demand the nature and cause of the accusation, and have a copy thereof;⁶

To be confronted by the witnesses against him;⁷

To have compulsory process for obtaining witnesses in his favor;⁸

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 by the law of the land.⁹

SEC. 7. No person shall be held to answer for a capi-

³ 62 Maine, 510.

⁴ 13 Mass. 286; 33 Maine, 564; 34 Maine, 126, 210; 42 Maine, 299; 47 Maine, 388; 62 Maine, 421; 70 Maine, 466; 72 Maine, 435.

⁵ 11 Maine, 210; 47 Maine, 426; 58 Maine, 572.

⁶ 58 Maine, 580; 59 Maine, 140.

⁷ 69 Maine, 401, 403.

⁸ 39 Maine, 54.

⁹ 1 Maine, 230; 11 Maine, 210; 37 Maine, 156, 165; 39 Maine, 258; 47 Maine, 432; 55 Maine, 200; 58 Maine, 573, 594, 598; 59 Maine, 318, 549, 553; 60 Maine, 122, 138, 509,-12; 62 Maine, 37; 65 Maine, 121, 242; 66 Maine, 73; 70 Maine, 157; 71 Maine, 241.

tal 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.¹⁰

SEC. 8. No person, for the same offence, shall be twice put in jeopardy of life or limb.¹¹

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. No person before conviction shall be bailable for any of the crimes, which now are, or have been denominated capital offences since the adoption of the Constitution, where the proof is evident or the presumption great, whatever the punishment of the crimes may be. 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 it¹²

SEC. 11. The Legislature shall pass no bill of attainder, ex post facto law, nor law impairing the obligation¹³

¹⁰ 4 Maine, 439; 60 Maine, 508, 509; 67 Maine, 336.

¹¹ 37 Maine, 165; 59 Maine, 141; 70 Maine, 457.

¹² 39 Maine, 258; Resolve of March 30, 1837; Amendment II. 66 Maine, 74.

¹³ 2 Maine, 275; 5 Maine, 66; 6 Maine, 112, 355; 7 Maine, 474; 11 Maine, 109, 118, 284; 14 Maine, 344; 15 Maine, 135; 18 Maine, 109; 21 Maine, 53; 23 Maine, 360; 24 Maine, 520; 27 Maine, 212; 42 Maine, 429; 45 Maine, 507; 47 Maine, 91; 48 Maine, 34; 49 Maine, 507; 50 Maine, 114; 51 Maine, 480; 57 Maine, 394; 63 Maine, 269, 285, 333; 65 Maine, 129; 71 Maine, 383; 74 Maine, 139. See U. S. Constitution, Art. 1, § 10, paragraph 1.

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 corporal 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 person, 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.¹⁴

¹⁴ 68 Maine, 236; 74 Maine, 27.

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 practiced; the party claiming the right may be heard by himself and his counsel, or either, at his election.¹⁵

SEC. 21. Private property shall not be taken for public uses without just compensation; nor unless the public exigencies require it ¹⁶

SEC. 22. No tax or duty shall be imposed without the consent of the people or of their representatives in the Legislature.¹⁷

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 behavior.

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

¹⁵ 3 Maine, 97; 25 Maine, 488; 35 Maine, 255; 37 Maine, 156, 165; 39 Maine, 413; 55 Maine, 193, 361; 60 Maine, 43; 62 Maine, 37; 65 Maine, 133.

¹⁶ 7 Maine, 273; 8 Maine, 365; 10 Maine, 447; 12 Maine, 222; 16 Maine, 9; 18 Maine, 109; 31 Maine, 172; 34 Maine, 247; 43 Maine, 356, 359; 47 Maine, 206; 55 Maine, 191; 58 Maine, 590, 593, 598, 616; 59 Maine, 318, 549, 553; 60 Maine, 122, 132, 134, 138, 295-6; 70 Maine, 524. See Amendment XXII.

¹⁷ 57 Maine, 394.

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. No person, however, shall be deemed to have lost his residence by reason of his absence from the State in the military service of the United States, or of this State.¹⁸

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.¹⁹

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. But citizens of the State absent therefrom in the military service of the United States or of this State, and not in the regular army of the United States, being otherwise qualified electors, shall be allowed to *vote on Tuesday next after the first Monday of November*,²⁰

¹⁸ 7 Maine, 497; 44 Maine, 507; 54 Maine, 602, 605; 68 Maine, 592, 593. 7 Maine, 492, 497. Resolve of March 24, 1864. See Amendment X.

¹⁹ 8 Maine, 187.

²⁰ See Amendment XXIII. See Resolve of March 24, 1864; Amendment X.

in the year of our Lord one thousand eight hundred and sixty-four, for governor and senators, and their votes shall be counted and allowed in the same manner, and with the same effect, as if given on the second Monday of September in that year. And they shall be allowed to vote for governor, senators and representatives on the second Monday of September annually thereafter forever, in the manner herein provided. On the day of election a poll shall be opened at every place within this State where a regiment, battalion, battery, company, or detachment of not less than twenty soldiers from the State of Maine, may be found or stationed, and every citizen of said State of the age of twenty-one years, in such military service, shall be entitled to vote as aforesaid; and he shall be considered as voting in the city, town, plantation and county in this State where he resided when he entered the service. The vote shall be taken by regiments when it can conveniently be done; when not so convenient, any detachment or part of a regiment not less than twenty in number, and any battery or part thereof numbering twenty or more, shall be entitled to vote wherever they may be. The three ranking officers of such regiment, battalion, battery, company, or part of either, as the case may be, acting as such on the day of election, shall be supervisors of elections. If no officers, then three non-commissioned officers according to their seniority shall be such supervisors. If any officer or non-commissioned officer shall neglect or refuse to act, the next in rank shall take his place. In case there are no officers or non-commissioned officers present, or if they or either of them refuse to act, the electors present, not less than twenty, may choose, by written ballot enough of their own number, not exceeding three, to fill the vacancies, and the persons so chosen shall be supervisors of elections. All supervisors shall be first sworn to support the constitution of the United States, and of

this State, and faithfully and impartially to perform the duties of supervisors of elections. Each is authorized to administer the necessary oath to the others; and certificates thereof shall be annexed to the lists of votes by them to be made and returned into the office of the secretary of state of this State as hereinafter provided. The polls shall be opened and closed at such hours as the supervisors, or a majority of them, shall direct; *provided, however*, that due notice and sufficient time shall be given for all voters in the regiment, battalion, battery, detachment, company, or part of either, as the case may be, to vote. Regimental and field officers shall be entitled to vote with their respective commands. When not in actual command, such officers, and also all general and staff officers and all surgeons, assistant surgeons and chaplains, shall be entitled to vote at any place where polls are opened. The supervisors of elections shall prepare a ballot box or other suitable receptacle for the ballots. Upon one side of every ballot shall be printed or written the name of the county, and also of the city, town or plantation of this State, in which is the residence of the person proposing to vote. Upon the other side shall be the name or names of the persons to be voted for, and the office or offices which he or they are intended to fill. And before receiving any vote, the supervisors, or a majority of them, must be satisfied of the age and citizenship of the person claiming to vote, and that he has in fact a residence in the county, city, town or plantation which is printed or written on the vote offered by him. If his right to vote is challenged, they may require him to make true answers, upon oath, to all interrogatories touching his age, citizenship, residence, and right to vote, and shall hear any other evidence offered by him, or by those who challenge his right. They shall keep correct poll-lists of the names of all persons allowed to vote, and of their respective places

of residence in this State, and also the number of the regiment and company or battery to which they belong; which lists shall be certified by them or by a majority of them, to be correct, and that such residence is in accordance with the indorsement of the residence of each voter on his vote. They shall check the name of every person before he is allowed to vote, and the check mark shall be plainly made against his name on the poll-lists. They shall sort, count and publicly declare the votes at the head of their respective commands on the day of election, unless prevented by the public enemy, and in that case as soon thereafter as may be; and on the same day of said declaration they shall form a list of the persons voted for, with the number of votes for each person against his name, and the office which he was intended to fill, and shall sign and seal up such list and cause the same, together with the poll-lists aforesaid, to be delivered into the office of the secretary of state aforesaid, *on²¹ or before the first day of December, in the year one thousand eight hundred and sixty-four and on or before the fifteenth day of November annually thereafter forever.* The legislature of this State may pass any law additional to the foregoing provisions, if any shall, in practice, be found necessary in order more fully to carry into effect the purpose thereof.

ARTICLE III.

DISTRIBUTION OF POWERS.

SEC. 1. The powers of this government shall be divided into three distinct departments, the Legislative, Executive and Judicial.²²

SEC. 2. No person or persons, belonging to one of these departments, shall exercise any of the powers

²¹ See Amendment XXIII.

²² 3 Maine, 326; 4 Maine, 140; 62 Maine, 597; 70 Maine, 609.

properly belonging to either of the others, except in the cases herein expressly directed or permitted.²³

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 one hundred and fifty-one members, to be elected by the qualified electors, for *one year*²⁴ 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.*

SEC. 3. Each town having fifteen hundred inhabitants

²³ See Article 9, § 2. 3 Maine, 372, 484; 7 Maine, 14; 32 Maine, 525; 64 Maine, 195; 70 Maine, 609, 610.

²⁴ See Amendment, XXIII, XXV. Resolve of April 16, 1841; Amendment IV. 3 Maine, 477; 33 Maine, 587.

may elect one representative; each town²⁵ 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 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,²⁶ *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

²⁵ 6 Maine, 486.

²⁶ Resolve of April 16, 1841; Amendment IV.

the period for which he is elected, have been five years a citizen²⁷ 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 within this State for the choice of representatives shall be warned in due course of law by the selectmen²⁸ 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 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

²⁷ Resolve of March 24, 1861; Amendment X.

²⁸ Resolve of March 24, 1864; Amendment X. 7 Maine, 497; 25 Maine, 567; 64 Maine, 592. See Amendments XXIII, XXV. Resolve of August 2, 1847; Amendment VII. 64 Maine, 589; 70 Maine, 561, 563, 564, 565, 567, 568, 583, 585, 587, 594, 609, 610. Resolve of March 7, 1834; Amendment I, amended by Resolve of March 24, 1864.

town clerks have, and are subject to by this Constitution. And fair copies of the lists of votes shall be attested by the selectmen and town clerks of towns, and the assessors 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 *annually*. And the governor and council shall examine the returned copies of such lists, and also all lists of votes of citizens in the military service, returned to the secretary's office, as provided in article second, section four, of this Constitution; and twenty days before the said first Wednesday of January, *annually*, shall issue a summons to such persons as shall appear to be elected by a plurality of all the votes returned, to attend and take their seats. But all such lists shall be laid before the House of Representatives on the first Wednesday of January, *annually*, and they shall finally determine who are elected. The electors resident in any city may, at any meeting duly notified for the choice of representatives, vote for such representatives in their respective ward meetings, and the wardens in said wards shall preside impartially at such meetings, receive the votes of all qualified electors present, sort, count and declare them in open ward meetings, and in the presence of the ward 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 warden, and in open ward meetings; and a fair copy of this list shall be attested by the warden and ward clerk, sealed up in open ward meeting, and delivered to the city clerk within twenty-four hours after the close of the polls. And the electors resident in any city may at any meetings duly notified and holden for the choice of any other civil officers for whom they have been required heretofore to

vote in town meeting, vote for such officers in their respective wards, and the same proceedings shall be had by the warden and ward clerk in each ward, as in the case of votes for representatives. And the aldermen of any city shall be in session within twenty-four hours after the close of the polls in such meetings, and in the presence of the city clerk shall open, examine and compare the copies from the lists of votes given in the several wards, of which the city clerk shall make a record, and return thereof shall be made into the Secretary of State's office in the same manner as selectmen of towns are required to do.

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.²⁹

SEC. 7. The House of Representatives shall choose their speaker, clerk and other officers.³⁰

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 district into which the State shall from time to time be divided.³¹

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*³² of ten years, cause the State to be divided

²⁹ 35 Maine, 563; 70 Maine, 597.

³⁰ 70 Maine, 588, 594, 595, 596, 597, 609, 610.

³¹ 7 Maine, 489. See Amendments XXIII, XXV.

³² 18 Maine, 458.

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 within this state for the election of senators shall be notified, held and regulated, and the votes³³ received, sorted, counted, declared and recorded, in the same manner as those for representatives. And fair copies of the list 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 the 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 also the lists of votes of citizens in the military service, returned into the secretary's office, and twenty days before the said first Wednesday of January, issue a summons to such persons, as shall appear to be elected by a plurality of the votes for each district, to attend that day and take their seats.³⁴

³³ Resolve of March 24, 1864; Amendment X. 25 Maine, 568; 64 Maine, 592, 595, 598.

³⁴ 64 Maine, 588; 70 Maine, 567-9, 584, 585, 609-10. Amendment X, Amended by Resolve of February 24, 1875; Amendment XIII.

SEC. 5. The Senate shall, on the said first Wednesday of January, *annually*,³⁵ determine who are elected by a plurality 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.³⁶

³⁵ See Amendments XXIII, XXV. Resolve of February 24, 1875; Amendment XIII. 6 Maine, 514; 7 Maine, 489; 35 Maine, 563; 64 Maine, 596; 70 Maine, 589.

³⁶ 70 Maine, 588, 593, 596, 597, 609, 610.

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.³⁷

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 Governor, 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

³⁷ See Amendment, XXIII, XXV. 3 Maine, 326; 4 Maine, 140; 6 Maine, 412; 7 Maine, 273; 9 Maine, 54; 11 Maine, 208; 12 Maine, 354; 16 Maine, 479; 31 Maine, 172, 360; 32 Maine, 343, 526; 33 Maine, 558, 587; 35 Maine, 319; 37 Maine, 156; 39 Maine, 258; 42 Maine, 150, 299, 429; 43 Maine, 202; 45 Maine, 507; 49 Maine, 346, 507; 55 Maine, 190, 200; 58 Maine, 594, 601; 59 Maine, 85, 318, 549, 553; 60 Maine, 122; 68 Maine, 582; 74 Maine, 137-140.

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.³⁸

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 publish³⁹ 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 behavior in its presence, for obstructing any of its proceedings, threatening, assaulting or abusing any of its member 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

³⁸ 35 Maine, 563; 70 Maine, 563, 585, 588, 593, 594, 595, 596, 597, 609, 610; 71 Maine, 370.

³⁹ 1880, c. 185.

the existence of the Legislature which enacted it. The expenses of the House of Representatives in traveling to the Legislature⁴⁰ 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 privileged⁴¹ 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 anything 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 increased⁴² 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,

⁴⁰ 63 Maine, 596.

⁴¹ 16 Maine, 132.

⁴² 3 Maine, 481; 32 Maine, 526.

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.

SEC. 13. The Legislature shall, from time to time, provide, as far as practicable, by general laws, for all matters usually appertaining to special or private legislation.⁴³

SEC. 14. Corporations shall be formed under general laws, and shall not be created by special acts of the Legislature, except for municipal purposes, and in cases where the objects of the corporation cannot otherwise be attained; and, however formed, they shall forever be subject to the general laws of the State.⁴⁴

SEC. 15. The Legislature shall, by a two-thirds concurrent vote of both branches, have the power to call constitutional conventions, for the purpose of amending this Constitution.⁴⁵

ARTICLE V.—PART FIRST.

EXECUTIVE POWERS.

SEC. 1. The supreme executive power of this State shall be vested in a Governor.⁴⁶

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*.⁴⁷

SEC. 3. The meetings for election of governor shall

⁴³ Resolve of February 24, 1875; Amendment XIV.

⁴⁴ Resolve of February 24, 1875; Amendment XIV.

⁴⁵ Resolve of February 24, 1875; Amendment XIX.

⁴⁶ 72 Maine, 546, 563.

⁴⁷ 70 Maine, 591. See Amendment XXIII.

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.⁴⁸ 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, and also the lists of votes of citizens in the military service returned into the secretary's office, 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

⁴⁸ 70 Maine, 598. Resolve of March 24, 1864; Amendment X. See Amendment XXIV. 7 Maine, 489.

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, coroners, 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.⁴⁹

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, commutations and pardons, except in cases of impeachment, upon such conditions, and with such restrictions and limitations, as may be deemed proper,⁵⁰ subject to such regulations as may be provided by law, relative to the manner of applying for pardons. And he shall communicate to the

⁴⁹ Resolve of March 17, 1855 ; Amendment IX. Amended by Resolve of February 24, 1875 ; Amendment XVI. 32 Maine, 526 ; 72 Maine, 547.

⁵⁰ Resolve of February 24, 1875 ; Amendment XV.

Legislature at each session thereof, each case of reprieve, remission of penalty, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, the date of the reprieve, remission, commutation or pardon, and the conditions, if any, upon which the same was granted.

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 disagreement 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,⁵¹ 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 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 exer-

⁵¹ 6 Maine, 506 ; 70 Maine, 593 ; 7 Maine, 489 ; 72 Maine, 548, 549.

cise 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 councillors, 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 councillors shall be chosen *annually*, on the first Wednesday of January, by joint ballot of the senators and representatives⁵² in convention ; and vacancies, which shall afterwards happen, shall be filled in the same manner ; but not more than one councillor 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 councillor 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 councillors. And no coun-

⁵² See Amendment XXIII. 70 Maine, 591.

cillor 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.⁵³

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.⁵⁴

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.

⁵³ See Amendment XXIII. 70 Maine, 591.

⁵⁴ 70 Maine, 590. See Amendment, XXIII.

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.⁵⁵

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.⁵⁶

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.⁵⁷

SEC. 4. All judicial officers *now in office or who may*⁵⁸ *be hereafter appointed* shall, *from and after the first day of March in the year eighteen hundred and forty*, hold their offices for the term of seven years from the time of

⁵⁵ See Amendment, XXIII.

⁵⁶ 3 Maine, 326; 4 Maine, 140.

⁵⁷ 58 Maine, 572, 573, 574; 70 Maine, 583, 608, 610, 611, 612; 72 Maine, 544, 560.

⁵⁸ Resolve of March 14, 1839; Amendment III. 21 Maine, 550; 62 Maine, 597.

their respective appointments, (unless sooner removed by impeachment or by address of both branches of the Legislature to the Executive) and no longer unless re-appointed thereto.

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 re-appointed or others appointed, as the public interest may require.⁵⁹

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.

SEC. 7. Judges and registers of probate shall be elected by the people of their respective counties, by a plurality of the votes given in at the *annual* election, on the second Monday of September, and shall hold their offices for four years, commencing on the first day of January next after their election.⁶⁰ Vacancies occurring in said offices by death, resignation or otherwise, shall be filled by election in manner aforesaid, at the September election next after their occurrence; and in the meantime, the Governor, with the advice and consent of the Council, may fill said vacancies by appointment, and the persons so appointed shall hold their offices until the first day of January *thereafter*.

SEC. 8. Judges of municipal and police courts shall be appointed by the executive power, in the same manner as other judicial officers, and shall hold their offices for the term of four years; *provided, however, that the present*

⁵⁹ 32 Maine, 528; 62 Maine, 596; 68 Maine, 594.

⁶⁰ See Amendment XXIII. Resolve of March 17, 1855; Amendment IX. 61 Maine, 602; 44 Maine, 388; 61 Maine, 602; 64 Maine, 596; 68 Maine, 587.

*incumbents shall hold their offices for the term for which were elected.*⁶¹

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.⁶²

SEC. 2. The Legislature shall, by law, direct the manner of notifying the electors, conducting the elections, and making 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 quartermaster general shall be chosen *annually* by joint ballot of the senators and representatives in convention.⁶³ But the adjutant general shall perform the duties of quartermaster 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.

⁶¹ Resolve of February 24, 1875; Amendment XVI. 62 Maine, 299; 72 Maine, 563.

⁶² 25 Maine, 157.

⁶³ 44 Maine, 388; 70 Maine, 571. Resolve of March 17, 1855; Amendment IX. See Amendment XXIII.

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 Legislature⁶⁴ are authorized, 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 authorize, 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.

⁶⁴ 31 Maine, 272; 68 Maine, 582; 1872, c. 56.

ARTICLE IX.

GENERAL PROVISIONS.

SEC. 1. Every person elected or appointed to either of the places or offices provided in this Constitution,⁶⁵ 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 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 councillors before the presiding officer⁶⁶ 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 councillor shall not be able to attend during the session of the Legislature to take and subscribe said oaths or affirmations, said 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*

⁶⁵ 3 Maine, 372,

⁶⁶ 70 Maine, 590, 592, 593.

*shall take and subscribe such oaths or affirmations before the president of the convention.*⁶⁷

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;⁶⁸ 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 adjourned⁶⁹ 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.⁷⁰

⁶⁷ Obsolete.

⁶⁸ 7 Maine, 14; 64 Maine, 195; 68 Maine, 594; 71 Maine, 209. See Article, III, § 2; Article IV, Part 3, § 11; Article V, Part 1, § 5.

⁶⁹ See Amendment XXIII.

⁷⁰ 60 Maine, 66, 67; 72 Maine, 549.

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.⁷¹

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.⁷²

SEC. 8. All taxes upon real and personal estate, assessed by authority of this State, shall be apportioned and assessed equally, according to the just value thereof.⁷³

SEC. 9. The Legislature shall never, in any manner, suspend or surrender the power of taxation.⁷⁴

SEC. 10. Sheriffs shall be elected by the people of their respective counties, by a plurality of the votes given in on the second Monday of September, and shall hold their offices for two years from the first day of January next after their election.⁷⁵ Vacancies shall be filled in the same manner as is provided in the case of judges and registers of probate.

SEC. 11. The attorney general shall be chosen *annually* by joint ballot of the senators and representatives in the convention. Vacancy in said office, occurring when the Legislature is not in session, may be filled by the appoint-

⁷¹ 21 Maine, 555; 72 Maine, 549, 563.

⁷² 62 Maine, 73, 451; 63 Maine, 277, 285.

⁷³ Resolve of February 24, 1875; Amendment XVII. 62 Maine, 73, 451; 63 Maine, 277, 285; 67 Maine, 136; 70 Maine, 522, 607; 72 Maine, 518, 525; 73 Maine, 526.

⁷⁴ Amendment XVII. 62 Maine, 62, 451.

⁷⁵ Resolve of March 17, 1855; Amendment IX.

ment of the Governor with the advice and consent of the Council.⁷⁶

SEC. 12. But citizens of this State, absent therefrom in the military service of the United States or of this State, and not in the regular army of the United States, being otherwise qualified electors, shall be allowed to vote for judges and registers of probate, sheriffs, and all other county officers *on⁷⁷ the Tuesday next after the first Monday in November, in the year one thousand eight hundred and sixty-four, and their votes shall be counted and allowed in the same manner and with the same effect as if given on the second Monday of September in that year. And they shall be allowed to vote for all such officers on the second Monday in September annually thereafter forever.* And the votes shall be given at the same time and in the same manner, and the names of the several candidates shall be printed or written on the same ballots with those for Governor, senators and representatives, as provided in section four, article second of this Constitution.

SEC. 13. The Legislature may enact laws excluding from the right of suffrage, for a term not exceeding ten years, all persons convicted of bribery at any election, or of voting at any election, under the influence of a bribe⁷⁸

SEC. 14. The credit of the State shall not be directly or indirectly loaned in any case. The Legislature shall not create any debt or debts, liability or liabilities, on behalf of the State, which shall singly or in the aggregate, with previous debts and liabilities hereafter incurred at any one

⁷⁶ Resolve of March 17, 1855; Amendment IX. See Amendment XXIII. 70 Maine, 591.

⁷⁷ Resolve of March 24, 1864; Amendment X. See Amendment XXIII.

⁷⁸ Resolve of February 24, 1875; Amendment XX.

time, exceed three hundred thousand dollars,⁷⁹ except to suppress insurrection, to repel invasion, or for purposes of war; but this amendment shall not be construed to refer to any money that has been, or may be deposited with this State by the government of the United States, or to any fund which the State shall hold in trust for any Indian tribe.

SEC. 15. *The State,⁸⁰ is authorized to issue bonds payable within twenty-one years, at a rate of interest not exceeding six per cent a year, payable semi-annually, which bonds or their proceeds shall be devoted solely towards the reimbursement of the expenditures incurred by the cities, towns and plantations, of the State for war purposes during the rebellion, upon the following basis: Each city, town and plantation shall receive from the State one hundred dollars for every man furnished for the military service of the United States under and after the call of July second, eighteen hundred and sixty-two, and accepted by the United States towards its quota for the term of three years, and in the same proportion for every man so furnished and accepted for any shorter period; and the same shall be in full payment for any claim upon the State on account of its war debts by any such municipality. A commission appointed by the Governor and Council shall determine the amount to which each city, town and plantation is entitled; to be devoted to such reimbursement, the surplus, if any, to be appropriated to the soldiers who enlisted or were drafted and went at any time during the war, or if deceased, to their legal representatives. The issue of bonds hereby authorized shall not exceed in the aggregate three million five hundred thousand dollars, and this amendment shall not be construed to permit the credit of the State to be directly or indirectly loaned in any other case or for any other purpose.*

⁷⁹ 53 Maine, 587. Resolve of July 26, 1847; Amendment VI.

⁸⁰ Resolve of March 7, 1868; Amendment XI. 53 Maine, 587; 60 Maine, 158; 69 Maine, 595. Obsolete.

SEC. 16. The Legislature may by law authorize the dividing of towns having not less than four thousand inhabitants, or having voters residing on any island within the limits thereof, into voting districts for the election of representatives to the Legislature, and prescribe the manner in which the votes shall be received, counted, and the result of the election declared.⁸¹

ARTICLE X.

SCHEDULE.

SEC. 1. All laws now in force in this State, and not repugnant to this Constitution, shall remain, and be in force, until altered or repealed by the Legislature, or shall expire by their own limitation.

SEC. 2. The Legislature, whenever two-thirds of both houses shall deem it necessary, may propose amendments to this Constitution;⁸² and when any amendments 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. 3. *After the amendments proposed herewith shall have been submitted to popular vote, the chief justice of the Supreme Judicial Court shall arrange the Constitution, as amended, under appropriate titles, and in proper articles, parts and sections, omitting all sections, clauses and words not in force, and making no other changes in the provisions*

⁸¹ Resolve of March 15, 1869; Amendment XII.

⁸² See Article 4, Part 3, § 15.

*or language thereof, and shall submit the same to the Legislature at its next session.*⁸³ And the draft, and arrangement, when approved by the Legislature, shall be enrolled on parchment and deposited in the office of the Secretary of State; and printed copies thereof shall be prefixed to the books containing the laws of the State. And the Constitution, with the amendments made thereto in accordance with the provisions thereof, shall be the supreme law of the State.

SEC. 4. Sections one, two and five, of article ten of the existing Constitution, shall hereafter be omitted⁸⁴ in any printed copies thereof prefixed to the laws of the State; but this shall not impair the validity of acts under those sections; and section five shall remain in full force, as part of the Constitution, according to the stipulations of said section, with the same effect as if contained in said printed copies.

AMENDMENTS.

To the Amended Constitution of Maine, adopted in pursuance of the second section of the tenth article of the Amended Constitution.

ARTICLE XXII.

LIMITATION OF MUNICIPAL INDEBTEDNESS.

No city or town shall hereafter create any debt or liability, which singly, or in the aggregate with previous debts or liabilities, shall exceed five per centum of the last regular valuation of said city or town; *provided, however*, that the adoption of this article shall not be construed as applying to any fund received in trust by said city or town, nor

⁸³ Resolve of Feb. 24, 1875; Amendment XXI.

⁸⁴ Resolve of Feb. 24, 1875; Amendment XXI.

to any loan for the purpose of renewing existing loans or for war, or to temporary loans to be paid out of money raised by taxation, during the year in which they are made.⁸⁵

[The twenty-second Amendment to the (Amended) Constitution of Maine was proposed to the people by a Resolve of the fifty-sixth Legislature passed February 9, 1877, and having been adopted by the people at the ensuing annual election, September 10, 1877, took effect as a part of the Constitution January 2, 1878, according to the provisions of the Resolve and the proclamation of Governor Connor issued December 20, 1877.]

ARTICLE XXIII.

BIENNIAL ELECTIONS AND BIENNIAL SESSIONS.

The governor, senators and representatives in the Legislature, shall be elected biennially, and hold office two years from the first Wednesday in January next succeeding their election ; and the Legislature, at the first session next after the adoption of this article, shall make all needful provisions by law concerning the tenure of office of all county officers, and concerning the annual or biennial reports of the State treasurer and other State officers and institutions ; and shall make all such provisions by law as may be required in consequence of the change from annual to biennial elections, and from annual to biennial sessions of the Legislature. *The first election under this Article shall be in the year one thousand eight hundred and eighty ; and the first meeting of the Legislature under this article shall be on the first Wednesday of January, eighteen hundred and eighty-one.*⁸⁶

Section four, article two ; section five, part one, article four ; section four, part two, article four ; section one, part three, article four ; section thirteen, part one, article five ; section two, part two, article five ; section one, part

⁸⁵ See Article I, § § 1, 21.

⁸⁶ See Article IV, Part 1, § 2 ; Part 2, § § 1, 5.

three, article five; section one, part four, article five; section four, part four, article five; section three, article seven; section four, article nine, and section eleven, article nine, are amended, by substituting the word 'biennial' for the word 'annual' wherever it occurs.

Section two, part one, article five, is amended, by striking out all after the word 'office' and substituting therefor the following words: 'for two years from the first Wednesday of January next following the election.' Section seven, article six, and section two, article ten, are hereby amended by striking out the word "annual" and insert in place thereof the word 'biennial.'

[The twenty-third Amendment was proposed to the people by a Resolve of the fifty-eighth Legislature passed March 4, 1879, and having been adopted September 8, was declared to have become a part of the Constitution by a Resolve of March 18, 1880.]

ARTICLE XXIV.

ELECTION OF GOVERNOR BY PLURALITY VOTE.

The Constitution of this State shall be amended, in the third section of the first part of article five, by striking out the word 'majority,' wherever it occurs therein, and inserting in the place thereof the word 'plurality.'⁸⁷

[The twenty-fourth Amendment was proposed to the people by a Resolve of the fifty-ninth Legislature passed January 27, 1880, and having been adopted September 13, was proclaimed by Governor Davis to be a part of the Constitution November 9, 1880.]

ARTICLE XXV.

BIENNIAL LEGISLATIVE TERMS.

Section two, article four, part first, of the Constitution of this State, as amended under the "resolution concerning an amendment of the Constitution of Maine," ap-

⁸⁷ See Article V, Part 1, § 3.

proved the fourth day of March, in the year eighteen hundred and seventy-nine, shall be further amended⁸⁸ by striking out the words "first Wednesday in January next succeeding their election," and inserting in place thereof the words 'day next preceding the biennial meeting of the Legislature, and the amendment herein proposed, if adopted, shall determine the term of office of senators and representatives to be elected at the annual meeting in September, in the year eighteen hundred and eighty, as well as the term of senators and representatives thereafter to be elected,' so that said section, as amended, shall read as follows :

'SEC. 2. The House of Representatives shall consist of one hundred and fifty-one members, to be elected by the qualified electors, and hold their office two years from the day next preceding the biennial meeting of the Legislature, *and the amendment herein proposed, if adopted, shall determine the term of office of senators and representatives to be elected at the annual meeting in September, in the year eighteen hundred and eighty, as well as the term of senators and representatives thereafter to be elected.* 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,*

⁸⁸ See Article IV, Part 1, § § 2, 5; Part 2, § § 1, 5; Part 3, § 1.

on said first apportionment, be not less than one hundred and not more than one hundred and fifty'

[The twenty-fifth Amendment was proposed to the people by a Resolve of the fifty-ninth Legislature passed March 18, 1880, and was adopted September 13, as appears from the transactions of the governor and council, preserved in the office of the secretary of state, wherein it is recorded that the report of the committee on elections to that effect was accepted by the council and approved by the governor, October 20, 1880. The amendment was never proclaimed by the governor nor declared by the Legislature, and it is not known that any public evidence of its adoption is in existence.]

ARTICLE XXVI.

PROHIBITION OF THE MANUFACTURE AND SALE OF INTOXICATING LIQUORS.

The manufacture of intoxicating liquors, not including cider, and the sale and keeping for sale of intoxicating liquors, are and shall be forever prohibited.

Except, however, that the sale and keeping for sale of such liquors for medicinal and mechanical purposes and the arts, and the sale and keeping for sale of cider, may be permitted under such regulations as the Legislature may provide.

The Legislature shall enact laws with suitable penalties for the suppression of the manufacture, sale and keeping for sale of intoxicating liquors, with the exceptions herein specified.

[The twenty-sixth Amendment was proposed to the people by a Resolve of the Sixty-first Legislature, approved February 21, 1883, adopted September 10, proclaimed by Governor Robie December 3, 1884, and took effect on the first Wednesday of January, 1885.]

AMENDMENT XXVII.

ELIGIBILITY OF THE TREASURER OF STATE.

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

[The twenty-seventh Amendment was proposed to the people by a resolve of the Sixty-third Legislature, approved March 10, 1887; adopted September 10; proclaimed by Governor Marble December 14, 1888, and took effect on the first Wednesday of January, 1889.]

AMENDMENT XXVIII.

APPOINTMENT OF ADJUTANT GENERAL.

‘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. 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.’

[The twenty-eighth amendment was proposed to the people by a resolve of the Sixty-fourth Legislature approved March 31, 1891; adopted September 12, 1892; proclaimed by Governor Burleigh December 13, 1892, and took effect on the first Wednesday of January, 1893.]

AMENDMENT XXIX.

EDUCATIONAL QUALIFICATION OF VOTERS.

‘ No person shall have the right to vote or be eligible to office under the constitution of this state, who shall not be able to read the constitution in the English language and write his name ; provided, however, that the provisions of this amendment shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who now has the right to vote, nor to any person who shall be sixty years of age or upwards at the time this amendment shall take effect.’

[The twenty-ninth Amendment was proposed to the people by a resolve of the Sixty-fourth Legislature; approved April 2, 1891; adopted September 12, 1892; proclaimed by Governor Burleigh December 13, 1892, and took effect on the first Wednesday of January, 1893.]

BIOGRAPHICAL SKETCHES OF MEMBERS OF THE CONVENTION.

COMPILED EXPRESSLY FOR THIS EDITION.

YORK COUNTY.

ELISHA ALLEN, of Sanford, removed from Massachusetts to Sanford about 1801; first vessel owner in town; town clerk, 1808-'9, and from 1811 to 1829; a prosperous merchant; representative to General Court from 1812 to 1815; one of committee to draft petition to Congress praying for relief from Embargo, January, 1809; representative to Massachusetts Legislature, in 1819; state representative, 1820-'21, justice of the peace from 1821 to 1832 or later; postmaster at Sanford from 1821 to 1830; Colonel of 3d Reg. Me. Militia, 1821; Brig. Gen. of 1st Brigade Me. Militia, 1823 to 1825; member of the Governor's Council in 1830.

JOHN BODWELL, Jr. of Shapleigh (now Acton), son of John and Miriam (White) Bodwell, born at Methuen (now Lawrence), Mass. Oct. 5. 1776; removed with his parents to Shapleigh (now Acton) in 1788; town clerk of Shapleigh from 1804 to 1819 inclusive; of Acton 1830 and 1831; selectman of Shapleigh from 1808 to 1826 inclusive, also in 1828; selectman of Acton from 1830 to 1837 inclusive, also 1841 to 1844 inclusive; member of committee to divide town of Shapleigh in 1828; representative to General Court in 1802, also from 1806 to 1809 inclusive, also from 1811 to 1813 inclusive, and in 1819; state representative in 1820, 1821, and in 1831; school committee in 1821, 1822 and 1823; clerk and deacon of the Baptist Church for many years; married

Sally James of Shapleigh in 1797, who died in 1846. He died in 1860. His father, John Bodwell, Sr., was a sutler in the Revolutionary army, and was selectman of Shapleigh four years. His son, Horace Bodwell, has been a prominent man in Acton for many years; being representative in 1844.

DAVID BOYD, of Limington, selectman from 1808 to 1818, inclusive, also in 1822; town clerk, 1811; representative to General Court from 1809 to 1813; called "Rev. David Boyd," and is remembered at Limington as a *good* public school teacher; probably the same David Boyd who was appointed justice of peace at South Berwick from 1830 to 1834, also county commissioner from 1831 to 1834, inclusive.

SAMUEL BRADEEN, of Waterborough, selectman from 1818 to 1823 inclusive; Lieut. Col. of 4th Reg. Me. Militia, 1820 to 1821; justice of peace from 1821 to 1834 or later.

JEREMIAH BRADBURY,⁶ (Joseph,⁵ John,⁴ Wymond,³ Wymond,² Thomas,¹) son of Joseph (an officer in the revolutionary war,) and Dorothy (Clark) Bradbury, born at Saco, October 22, 1779; studied law with Cyrus King of Saco, and Nicholas Emery of Parsonsfield; admitted to York County Bar in 1805; opened an office at Saco; removed to Biddeford in 1810; removed to South Berwick in 1812; removed to York in 1815; collector of customs at York from 1813 to 1820; appointed by Gov. Wm. King clerk of the judicial courts of York county in 1820; removed to Alfred in 1821; clerk of courts for York county from 1820 to 1841, excepting one year; removed to Calais in 1841, where he continued the practice of law until his death in November, 1848. He married October 28, 1810, Mary Langdon (born 5th Dec., 1789,) daughter of Seth and Olive (Jordan) Storer of Wells and Saco. Jeremiah had 8 children, the oldest being Bion Bradbury, born at Biddeford, Dec. 6, 1811; collector of port of Eastport; later a resident of Portland, and the Democratic candidate for Governor of Maine in 1863; afterwards surveyor of the port of Portland.

ELIHU BRAGDON of York, son of Daniel and Mary (Came) Bragdon of York; born May 3, 1767; representative to General Court from 1808 to 1819; state representative 1820-1-5-6; justice of peace 1821 to 1832; York county coroner, 1825; selectman several years; married Abigail, daughter of Cotton Bradbury; had a son James, born 9th Oct., 1789, a selectman, sheriff, jailor, and a representative at the time of his death, 6th Nov. 1831.

JOHN BURBANK, Jr., of Lyman, son of John Burbank, Senior, one of the first settlers of Arundel (now Kennebunkport); resided in Arundel before the Revolution; in Capt. N. M. Littlefield's company in 1775; sergeant in Capt. Eliphalet Daniels' (or Davis') company stationed at Portsmouth, N. H., in 1776; cap-

tured in the brig "Charming Polly," and sent to England on board the privateer "Dalton," in 1777; enlisted as master-at-arms under John Paul Jones in the "Bonne Homme Richard," in 1779; in the engagement between the "Serapis" and the "Countess of Scarborough," in September, 1779, he displeased Jones by giving the prisoners their freedom when Jones' ship was sinking; settled in Lyman after the Revolution; chosen to keep the proprietors' record in 1803; had but one daughter (Sally), who married Joshua Taylor, of Lyman, where Mr. Burbank was living in 1837. John Burbank, Senior, was born in Bradford, Mass.; one of the first settlers of Arundel; millman; second lieutenant in the expedition to Louisburg in 1745.

JOHN BURNHAM, of Limerick, born at Scarborough; graduated at Harvard College, 1798; studied law with Judge Mellen, then of Biddeford; admitted to York County Bar, 1801; opened law office in Limerick in 1801; state representative in 1820-1; justice of the peace from 1821 to 1825; died at Limerick in July, 1825.

JOSHUA T. CHASE, of Kittery, a Baptist minister at South Berwick in 1824-5; possibly another Joshua Chase was the Baptist minister; selectman of Kittery from 1814 to 1824; representative to the General Court from 1814 to 1820; state representative from 1822 to 1829, also in 1833-'34; justice of peace from 1821 to 1834; a Democrat in politics.

NATHANIEL CLARK, Junior, of Limington; selectman, in 1812, and continuously from 1815 to 1832, inclusive; state representative from 1820 to 1824, also from 1828 to 1830; member of Governor's Council from 1832 to 1835, inclusive; senator from York county in 1835-'6.

SAMUEL CURTIS, Junior, of Wells; native of that town; descendant of one of the early inhabitants; successfully engaged in trading and shipping; justice of peace in 1821, 1823 to 1825, and 1829; representative to Massachusetts Legislature in 1814-15; a prominent church member of Calvinistic views; in Nov. 1800, he married Lydia, daughter of Capt. James Littlefield; nine children; married 2nd, in 1827, Olive, daughter of John Storer. Mr. Curtis died in 1845, at the age of 70.

RICHARD FOXWELL CUTTS, of Berwick, selectman, 1783, 1785, 1786, 1789 to 1797, 1799 to 1810; delegate to the constitutional convention of 1787; representative to the General Court from 1790 to 1797; then representative in 1800, resigning to enter the senate; senator from 1800 to 1802; representative from 1806 to 1813; justice of peace from 1821 to 1829, after which his name does not appear in the official registers.

JOSEPH DANE of Wells (now Kennebunk), son of John and Jemima (Fellows) Dane of Beverly, Mass.; born at Beverly, 25th Oct. 1778; educated at Phillips Academy, Andover; graduated second in his class at Harvard in 1799; studied law with his distinguished uncle Nathan Dane of Beverly; a ripe scholar; admitted to the bar in 1802; commenced practice in Wells in 1802; soon gained extensive practice; for many years the leading lawyer of York County bar; much interested in public affairs; member of the Brunswick convention in 1816; chosen one of the two executive councillors allowed the province of Maine in 1818 but declined; representative to Congress in 1820 and 1821; also 1823—the first to take his seat as chosen from Maine; state representative, 1824-5; 1832-3; 1839-40; state senator 1829; retired from public life, 1840; married Mary, daughter of Jonas Clark of Kennebunk, in Oct. 1808; three children; son Nathan, five years state treasurer (1860-65); son Joseph, Jr., a lawyer at Kennebunk; Mr. Dane died 1st May, 1858; Mrs. Dane died 18th February, 1872, aged 82.

GIDEON ELDEN of Buxton, was a soldier in the Revolution; selectman from 1809 to 1811, and 1816 and 1817; representative to the General Court from 1811 to 1813, and 1816 and 1817; a captain in the Maine Militia; appointed a justice of the peace from 1821 to 1829.

BENJAMIN GREENE, of South Berwick, son of Benjamin and Martha (Brown) Greene, of Waltham, Mass., where he was born 5th May, 1764; graduated at Harvard in 1784, in the class with Chief Justice Mellen, Prof. Abbott of Bowdoin, Pres. Webber of Harvard, Silas Lee and Benj. Pickman; studied divinity; settled as Unitarian minister at Medway, Mass., in 1788; chosen Principal of Berwick (Maine) Academy in 1797 or 1798; studied law with Dudley Hubbard of South Berwick; admitted to bar in 1801; representative to General Court from old Berwick from 1809 to 1814; representative to General Court from South Berwick from 1815 to 1817, also in 1819; Chief Justice of Eastern Circuit Court, including York, Cumberland and Oxford counties, from 1811 to 4th Feb., 1822. Member of Legislature, and Speaker of House in 1824; appointed by President John Adams Marshal of U. S. District Court of Maine, in 1824, and held that office until 1830; justice of the peace from 1823 to 1834; removed to Athens, Maine, where he died Oct. 15, 1837. Judge Greene married Lydia Clark, of Lexington, Mass.; five sons, viz: (1) Benjamin F., physician at Athens and Parkman, where he died; (2) Charles, born at Marblehead, Mass., 21st Feb., 1796; graduated at Dartmouth College in 1811; lawyer at South Berwick and at Athens, Maine; state senator 1835; member of Executive Council 1836; Judge of Probate, Somerset county, 1841 to 1852; (3) Frederick, lawyer at Saco; state senator, 1835-6; representative 1842; Judge of municipal court of Saco, 1849 to 1852; (4) Bowen Clark, lawyer; Postmaster, Saco, 1845 to 1849; deputy collector

of port of Saco, 1852; clerk in office of Secretary of State, 1835, 1836, 1837; (5) Henry Bowen Clark, Brig. Gen. 2d Brigade, Me. Militia, of Saco, 1829 to 1831; distinguished physician in Saco and Boston.

SAMUEL HEARD, of Shapleigh, resided in what is now Acton; called the first town meeting for Acton, 22d March, 1830; selectman of Shapleigh 1817 to 1819, also 1821-2, and 1824; member of school committee for Shapleigh 1821-2; clerk of Baptist church. He was born in Shapleigh, the son of Capt. Heard. He married Ann Clark and died in Exeter, Maine.

WILLIAM HOBBS, of (old) Berwick, resided in that part of the town which was incorporated March 22, 1831, as North Berwick; he was a representative to the General Court from 1805 to 1819; state representative, 1822, 1824; selectman, 1795, also from 1801 to 1814; justice of peace from 1821 to 1831; the same for North Berwick, 1832. Member of committee of safety, 1814.

NATHANIEL HOBBS, of (old) Berwick (now North Berwick), was innkeeper in 1827; postmaster from 1823 to 1827; called "Colonel" in 1827; justice of the peace from 1825 to 1831; described as Nathaniel Hobbs of North Berwick, from 1832 to 1834; appointed to qualify civil officers, 1831-'32 and 1834; justice of the peace for North Berwick, 1832. His son, Hiram H. Hobbs, graduated at Bowdoin College in 1823, a successful lawyer; was clerk of courts, York county, 1838-'39 and 1841-'42.

HENRY HOBBS, of Waterborough, was born in Berwick (now North Berwick) 3d March, 1768; removed to Waterborough previous to 1798; selectman in 1798, and from 1800-'2, and in 1817 and 1826; town clerk, 1810; held other town offices until 1834; representative to Massachusetts Legislature, 1809-'13; state representative from 1820-'21, in 1827, 1831, 1833 and 1835; member of executive council in 1837 and 1839; justice of peace, 1821 to 1834; chaplain of 4th Reg. Me. Militia from 1821 to 1830; at the organization of the First Free Baptist Church in Waterborough, 1st Nov. 1798, he was chosen clerk; afterwards converted; baptized 4th Oct. 1799; began preaching within one week; on 2d Jan. 1800, recommended to improve his "gift" in public; ordained 22d May, 1801; became first settled pastor of the Free Baptist church in Waterborough. The building called "Rev. Henry Hobbs' Meeting House," was first occupied 2d May, 1805; he organized the Free Baptist church at Kittery Point 10th Nov. 1827; from 1807 to 1852, town elections were held in "Rev. Henry Hobbs' Meeting House," on Ossipee Hill, Waterborough. Mr. Hobbs was an active minister until 1845, when his health failed; he died 20th March, 1848; was buried on his farm on the southern slope of Ossipee mountain; the church he founded soon declined; the meeting house became dilapidated, and in 1854 it was torn down.

TIMOTHY HODSDON, of Hollis, resided in what is now Dayton; a Baptist clergyman; "Rev. Timothy Hodsdon's meeting house," was erected near the "Boiling Springs," in 1802-'3; representative to General Court, 1814-'15; died in 1875, and was buried on the Meserve farm in Dayton.

JOHN HOLMES of Alfred, son of Malchiah Holmes; born in Kingston, Mass. March, 1773; in early life engaged in the manufacture of iron in Kingston; graduated at Brown University, Providence, in 1796; studied law with Benjamin Whitman of Hanover; admitted to bar 1799; removed to Alfred (then Sanford) in Sept. 1799; for several years successfully engaged in settling disputed land titles in the Fluellen and Phillips grant; in politics first a Federalist, later a Democrat; as Federalist, representative to General Court of Mass. in 1802 and 1808; advocated the war measures of Pres. Madison in 1811; representative to General Court 1812-3; defeated candidate for Speaker of the House; state senator 1813 to 1817; appointed lieutenant-colonel of Col. Lane's U. S. Reg. 1813, but declined; appointed by Pres. Madison a commissioner to Ghent to make a division between the United States and Great Britain of islands in Passamaquoddy Bay in 1815; representative to Congress from Maine 1817 to 1821; United States senator from Maine from 1821 to 1827; U. S. senator from 1829 to 1833, filling a vacancy; justice of peace from 1821 to 1834; trustee of Bowdoin College from 1821 to 1832 or longer; state representative in 1829, also 1835 to 1837; the leader in working for the separation of Maine from Mass.; chairman of committee to draft a constitution for Maine in 1819. In 1841 appointed by Pres. W. H. Harrison attorney for district of Maine which office he held until his death July 7, 1843. He married Sally Brooks, of Scituate, Mass., in Sept., 1800, by whom he had four children. His second wife was the widow of James Swan (son of Col. James Swan of Boston), and the accomplished daughter of Gen. Henry Knox (of the revolutionary army), to whom he was married in July, 1837. In 1838 he removed to Thomaston where he occupied the Gen. Knox residence until his appointment as U. S. district attorney, when he resided part of the time in Portland, where he died. While living at Thomaston, in 1840, Mr. Holmes compiled and published a book entitled, "The Statesman, or Principles of Legislation and Law," 510 pp., printed by Severance & Dorr, Augusta. His portrait hangs in the rotunda of the State Capitol. Mr. Holmes was one of the forty-nine corporators of the Maine Historical Society in 1822. (The names of the other members of the Constitutional Convention who were also corporators of that Society, are:—Albion K. Parris, Wm. P. Preble, Joshua Wingate, Jr., William King, Daniel Rose, Daniel Cony, Sanford Kingsberry, James Bridge, Ether Shepley, and Judah Dana.)

THOMAS A. JOHNSON, of Cornish, was a selectman in 1796-'97, 1800, 1804-'06, 1814 to 1820; state representative, 1820-'21; associate justice of the Court of sessions, 1821 to 1825; justice of the peace from 1821 to 1825.

ABNER KEZAR of Parsonsfield (probably son of George Kezar, a famous hunter, and a settler in Parsonsfield); born at Canterbury, N. H., in 1773; removed to Parsonsfield with his father, for whom the village of Kezar Falls was named; town officer; selectman 10 years, beginning with 1815; justice of the peace many years; town representative 1828-9-30-31; married, 27th Oct. 1803, to Dorcas Perry who died Sept. 7, 1847 aged 65; he died Oct. 9, 1849; nine children,—one son, John Kezar, of Parsonsfield, was a prominent business man; held many town offices, town representative 1851-2-3, state senator 1856. (The name Kezar was misprinted Hazen in Perley's list of delegates, and the error was accidentally repeated in the present edition.

DAVID LEGRO, of Lebanon, born in 1759; a servant of Lieut. Ichabod Cowell (born 25th Dec. 1734, died 9th Jan. 1823), in the Revolutionary army; returned to Lebanon at the close of his term of service; married Betsey, daughter of Capt. John and Hannah (Waldron) Hayes, of Dover, N. H., Jan. 19, 1785; he engaged in the manufacture of potash, adding later a grocery store and country tavern at Legro's Corner; selectman in 1809; representative to General Court, 1805 to 1813, also 1815 to 1817; state representative, 1820, 1821; justice of the peace, 1821-1829; a Freemason; possessed unusual benevolence; accumulated a good property; died at Lebanon, of cancer, Aug. 21, 1835, without children. "While in the army, a strong friendship grew up between himself and Lieut. Cowell which lasted during their lives. Before his death, Lieutenant Cowell lost all his property, after which time he became a frequent guest at Squire Legro's. On one of these visits Lieut. Cowell was taken suddenly ill and died there. Squire Legro caused his friend to be buried in his own family burying-lot. In this lot, at the foot of Gerrish's Peak, within the shadows of the granite mountain, are the graves of the *master* and *servant*—heroes of the Revolution,—where they will remain till 'The heavens shall be no more.'"—(*Samuel W. Jones, M. D., of Lebanon, at the age of 87 yrs. in 1894.*) David Legro's sister Abigail was the wife of the Rev. John Blaisdell, the first resident Free Baptist minister of Lebanon.

JOHN LEIGHTON, of Shapleigh, resided in what is now Acton; chosen representative to the General Court May 15, 1802, by ten votes—the whole number cast; moderator of Shapleigh from 1804 to 1815; and in 1820-1; selectman, 1806 to 1810; representative, 1802, 1806, 1807, 1809.

JOHN LOW, of Lyman, a native of Beverly, Mass., one of the earliest settlers of Coxhall (now Lyman); elected moderator, treasurer, surveyor of highways, and "deer-reeve," at the first town meeting in Coxhall (Lyman), held 5th June, 1780; town meetings were held for a number of years at his house; elected moderator and treasurer for many years; first representative from Lyman to General Court in 1787; representative to Massachusetts Legislature from 1787 to 1801, and from 1802 to 1819; captain of military company in 1780; selectman, 1781 and 1785; state representative 1820-1; president of York County Bible Society 1821-3; presidential elector 1816. His descendants reside on the old homestead in Lyman. In the cemetery near the Congregational church in Lyman, his epitaph may be found, as follows:

"JOHN LOW, Esq.,
Died November 23, 1827, aged 82 years;
An intrepid officer in his country's cause;
A civil magistrate for more than forty years,
An active legislator and an able promoter of Justice and Peace.
An affectionate Husband and Father.
A faithful friend and counsellor, and
A true Soldier of the Prince of Peace."

DAVID MARSTON of Parsonsfield, son of Col. David Marston of Hampton, N. H.; descendant of William Marston; born Feb. 5, 1756; removed from Hampton, N. H. to Parsonfield in 1784, where he became one of the first settlers; petitioner in 1785, with 48 others, for incorporation of town; representative to the General Court 1806-9, also in 1814-15; justice of peace, 1821 to 1829 inclusive; town officer many years; selectman in 1799, 1800, 1802, 1808 and 1814; captain of militia 1817; married Mary Page in 1782, who died 17th Dec. 1847; he died Jan. 29, 1835; nine children—one son Joseph Marston being state representative in 1849-50.

WILLIAM MOODY of Saco, son of William Pepperell and Elizabeth (Scamman) Moody who came from Kittery to Saco in 1763; born at Saco July 10, 1770; early education limited; representative to General Court from 1804 to 1812; senator from 1812 to 1820; president of senate in 1820, resigning June 20; town treasurer of Saco from 1819 to 1822; sheriff from 1821 to 1822. By force of native intellect, without early training, he was a prominent and highly useful member of the Massachusetts Legislature. He died suddenly March 15, 1822, while in the midst of life and usefulness.

NAHUM MORRILL of Wells, son of Rev. Moses and Hannah (Jordan) Morrill of Saco; born about 1774; his father was a native of Salisbury, Mass., a graduate of Harvard College in 1737, and at the age of 15 was a settled minister at Saco; (1742 to 1778) when he died. Nahum removed to Wells in his boyhood;

was a trader for many years at a place since named for him "Morrill's Corner"; was unsuccessful in shipping; representative to General Court from 1808 to 1819; also representative to State Legislature from 1820 to 1822, and again in 1824-5; town treasurer; married, 3rd Dec. 1789, Sarah Littlefield; ten children. Samuel Morrill, educated at Bowdoin College and a physician in Boston, was a son.

STEPHEN NEAL, of Eliot, surveyor of land in 1810; town clerk of Eliot, 1810; selectman of old Kittery in 1803, 1805-6; selectman of Eliot, 1824; justice of peace from 1824 to 1832 or later.

SIMON NOWELL of Arundel (now Kennebunkport), removed from York to Alfred about 1770; lumber mills at Alfred; removed to Arundel about 1800; representative from Kennebunkport from 1820 to 1824; commanded a detachment of militia stationed at Fort McLary, Kittery, in 1814 or 1815; Brig. Gen. of First Brigade Me. Militia in 1821; director Kennebunk Bank in 1821; justice of peace in 1821, also from 1827 to 1830; presidential elector at large in 1828; removed to Bangor in 1830.

JOSIAH PAINE, of Buxton, appointed a justice of the peace in 1827.

ALEXANDER RICE, of Kittery, selectman from 1796 to 1813, and also in 1823-4; representative to the General Court from 1807 to 1809; senator from 1809 to 1812; in the Massachusetts Resolves for 1812-13, he appears as both a member of the Governor's Council and a senator for 1812-13; senator from 1817 to 1820; Alexander Rice, *Junior*, of Kittery, was Lieut. of 1st Reg. Maine Militia, 1821; was Major of same regiment in 1823; justice of peace from 1821 to 1830; state senator, 1820-21; called "Major" from 1798 to 1800, and "Captain" from 1801 to 1803, and again "Major" from 1804 to 1813.

ELISHA SHAPLEIGH, of Eliot, selectman in 1795; also in 1827; one of the committee of safety in 1814; resided in that portion of *old Kittery* which was set off as Eliot in 1810.

TIMOTHY SHAW of Sanford, son of Timothy and Lucy (Low) Shaw of York and later of Sanford, born at York in 1783; removed with his parents to "Shaw's Ridge," Sanford, in 1788; academically educated; in early life a school teacher; land surveyor; merchant at Sanford Corner from 1826-1839; selectman from 1813 to 1840, excepting 1814, 1828, 1837, and 1839; justice of peace from 1821 to 1834 or later; state representative 1828, 1832 to 1836; state senator 1839-40; Capt. 3rd Reg. Me. Militia 1821; major of same 1823

to 1827; Lieut. Col. of same 1828; Col. of same 1829-30 and 1834; post-master at Sanford, 1831 to 1834; in politics an active Democrat; died 20th Aug. 1870. He had two children, viz., Samuel Madison (born 26th Nov. 1811,) of Alfred; and Timothy, Jr. (born Oct. 12, 1817), of Sanford. Timothy Shaw, Jr. was register of deeds, York County, from 1852 to 1858; county commissioner from 1845 to 1852.

ETHER SHEPLEY, of Saco, son of John and Mary (Gibson-Thurlow) Shepley of Groton, Mass.; born Nov 2, 1789; educated at Groton Academy; graduated from Dartmouth College in 1811; studied law with Dudley Hubbard of South Berwick, York County, and with Zabdiel B. Adams of Worcester County, and Solomon Strong of Hampshire County, Mass.; admitted to bar in 1814, and commenced practice at Saco; representative to General Court, 1819; United States District Attorney for Maine, from Feb. 1821 to 1833; United States Senator from 1833 to 1836, when he resigned to accept appointment as Judge of the Supreme Judicial Court of Maine; Chief Justice from October 23, 1848 to October 23, 1855 when his term expired; director of Saco Bank, 1821; President of Saco bank 1828 to 1831; member of Overseers Bowdoin College from 1823 to 1829; trustee of Bowdoin, 1830 to 1832 or later; the compiler of twenty-seven volumes of Maine Reports of Judicial Decisions. Appointed sole commissioner for the revision of the public laws of Maine provided by the resolve of April 1, 1856. He accordingly prepared the Revised Statutes of Maine as published in 1857. Dartmouth College conferred the degree of LL.D., on him. He died at Portland, January 15, 1877. Judge Shepley married in 1816, Anna Foster; five children; two: John R., graduated at Bowdoin College in 1837, lawyer, removed to St. Louis, Mo.; George Foster, graduated at Dartmouth College, in war of rebellion was Colonel of 12th Maine Volunteers, promoted to Brig. General, commanding at New Orleans, later military governor of Louisiana, later lawyer at Portland. Dec. 22, 1869, appointed U. S. Circuit Judge for the First Circuit, and held that office at the time of his death, July 20, 1878.

SETH SPRING, of Biddeford, was in the battle of Bunker Hill, 1775, and continued in the continental service three years; removed to Biddeford about 1780; lumberman; erected mills on Spring's island in 1794; was justice of the peace, 1827 to 1829; state representative, 1824 to 1826, also in 1828

GEORGE THACHER of Biddeford, son of Peter and Anner (Lewis) Thacher of Yarmouth, Mass.; born at Yarmouth 12th April, 1754; descendant of the fourth generation of Anthony Thacher, a planter, who was wrecked on Thacher's Island near Salem, 14th August, 1635; graduated at Harvard in 1776; school teacher; law student of Shearjashut Bourne of Barnstable, Mass.; commenced practice in York, Me. in 1780 or 1781; removed to

Biddeford in 1782; succeeded Gov. James Sullivan in practice of law at that place; July 20, 1784 married Sarah, daughter of Samuel Phillips Savage of Weston, Mass. Before the adoption of the Federal Constitution he was chosen by the Mass. Legislature a delegate to Congress, and afterwards was successively elected a representative to Congress until 1801, when he resigned his seat and accepted the appointment of associate justice of the Sup. Jud. Court of Massachusetts; in 1820, after the separation of Maine, he removed to Newburyport, where he resided until Jan. 1824, when he resigned his office and returned to pass the remainder of his days at Biddeford, where he died April 6, 1825. His son George, junior, was also a member of the convention.

GEORGE THACHER, Jr., of Saco, son of Judge George and Sarah (Savage) Thacher of Biddeford; born 7th Sept. 1790; graduated at Harvard, 1812; studied law with his father; practiced at Saco; register of probate for York County from 1820 to 1828; law partner of Gov. John Fairfield; removed to Monroe, Waldo County, Maine, of which he was a sheriff in 1838; collector of customs, Belfast, from 1841 to 1844; died at Westfield, Mass. June 12, 1857. He held minor offices, such as justice of peace from 1821 to 1834 or later; aide-de-camp in Maine militia, 1821; grand marshal of the Grand Masonic Lodge of Me. 1823; grand warden of same 1825; public administrator for York County, 1831.

JOSEPH THOMAS of Wells (now Kennebunk), graduated at Harvard in 1786; school teacher in Portland; studied law with Daniel Davis of Portland; removed to Wells in 1792; a lawyer; married Abigail Russell of Barnstable, Mass.; selectman many years; representative to General Court in 1815-16-17; chief justice of the Court of Sessions from 1821 to 1825; justice of peace from 1820 to 1830; senior warden of York Lodge of Masons at Kennebunk, 1821; late in life very corpulent, weighing nearly 300 lbs.; of a retiring disposition; died 20th Jan. 1830, aged 67 years, leaving a widow but no children. He had the habit of joking, as the following stories show: Once Thomas was attending Court, in which Judge Widgery, in his charge to the jury, had remarked that a man had a right to make his mark on the ground and say to another man that if he stepped over the mark he would knock him down. Thomas went to the public house where the Judge and other lawyers were boarding. When he saw Judge Widgery approaching he took his cane and drawing a mark across the path, said: "Now, Judge, there is my mark and if you step over it I will knock you down." After considerable humorous parleying Thomas waived this right and permitted the Judge to pass. At another time a couple wished to be married, and as no minister was at hand, they came to Thomas, who, as magistrate, performed the ceremony. The justice was busy writing when the couple entered his office. He

stopped to inquire what was wanted. Then he asked of the man if he wished to take that woman for a wife. Turning to the woman he inquired if she wished to take the man for her husband. Upon receiving affirmative answers he resumed his writing. The couple waited until their patience was nearly exhausted, when the man informed Mr. Thomas that they were in a great hurry. "Why, then, don't you go along," said Thomas. "Why! we want to be married first," replied the man. "Married! you have been married more than half an hour," said Thomas.

ELLIS B. USHER, of Hollis, son of Abijah and Mary (Wells) Usher; born at Medford, Mass., 7th Nov. 1785; a descendant of Robert Usher who settled at Stamford, Ct. Mr. Usher came to Hollis on horseback at the age of 12, to seek his fortune; began working for \$5 per month; later became clerk in office of register of deeds, Alfred; at the age of 19 he purchased a farm and gave it to his father; engaged in lumbering on the Saco; in 1814 lost all his property and several thousand dollars beside by flood; paid all his debts and later became one of the largest lumber operators on the Saco river; state senator 1823-'24; postmaster, 1823 to 1827; justice of the peace from 1821 to 1832; in politics a Whig and Republican; married, 1st—Rebecca, daughter of Capt. Benjamin Randall, of Cape Elizabeth, 22d Nov. 1812; married 2d, Nov. 26, 1820, Hannah, daughter of Col. Isaac Lane of Hollis. He died 21st May, 1855, leaving a large estate.

GEORGE WASHINGTON WALLINGFORD of Wells (now Kennebunk), born at Somersworth, N. H., 19th Feb. 1778; orphan in infancy; early life a hard struggle; graduated at Harvard in 1795; studied law with Dudley Hubbard of So. Berwick; admitted to the bar 1798; commenced practice at Kennebunk (then a part of Wells) in 1800; in politics a Federalist; representative to General Court from 1813 to 1819 inclusive; member of the preliminary convention held at Brunswick in 1816; one of the thirty-one who objected to signing the Constitution of Maine claiming an unjust apportionment of representatives; opposed to the separation of Maine from Massachusetts until it should acquire greater wealth and importance; representative from Kennebunk in 1823; died Jan. 19, 1824; in 1806 he married Abigail Chadbourne of Berwick, who died 1st Jan. 1808, at the age of 23, leaving one daughter. In 1815 he married Mary, daughter of Dr. Jacob Fisher of Kennebunk, by whom he had five children.

DAVID WILCOX, of York, was deputy sheriff for York county, from 1821 to 1825; weigher in the custom house, York, from 1823 to 1827; inspector in custom house from 1829 to 1830; justice of peace from 1823 to 1832; postmaster from 1823 to 1828; coroner from 1830 to 1832.

EDMUND WOODMAN, of Buxton; justice of the peace from 1823 to 1828.

DANIEL WOOD, of Lebanon, born in *old* Berwick (now South Berwick) 5th February, 1767; removed to Lebanon before 1794; well educated; a school teacher and land surveyor; Postmaster at the office styled "Lebanon" from April, 1805, to 1834, and again for a few years; representative to Massachusetts Legislature, 1814-5; justice of peace from 1824 to 1834, and much engaged in settling estates; member of Executive Council of Maine 1824 to 1828; selectman, 1794-5; 1813-4; 1819; and 1821 to 1824 inclusive; in politics he was a Republican and later a Democrat; a Baptist; married 15th March, 1795, Miriam Bodwell, by whom he had several sons. He died 29th July, 1846. Son Frederick A., was representative, 1843; senator, 1845.*

CUMBERLAND COUNTY.

JOSEPH ADAMS, Gorham, a graduate of Harvard in 1805. He first settled in Buxton, but soon removed to Gorham, and practiced law there until 1821. He was county attorney for many years. He moved to Portland in 1821 and remained there in practice until his death in 1850. Mr. Adams was regarded as a sound, judicious lawyer, an upright man, and a valuable citizen.

NATHAN BUCKNAM, Falmouth. (None of the local histories of Cumberland county make mention of Mr. Bucknam, nor does his name appear in any of the state registers. No facts concerning him have been obtained by the compiler of these sketches of his associates in the constitutional convention.)

* The publisher of this book acknowledges his obligation to George W. Chamberlain for valuable assistance in the work of compiling the sketches of members of the Constitutional Convention from the County of York. Mr. Chamberlain was born in Lebanon, August 27, 1853, and graduated at the Maine State College (Orono) in 1885; he is a member of the Maine Historical Society, a devoted student and successful teacher, and (at the time of the printing of this volume, 1894) the Principal of the schools of the Village District of the City of Augusta.

WILLIAM BUXTON. North Yarmouth, the oldest in the family of Jeremiah and Jane G. (Drinkwater) Buxton, was born in North Yarmouth Oct. 28, 1796. He spent his boyhood at his home till he was seventeen years old, when he formed a partnership with his father as shipbuilder. He early interested himself in the affairs of the town, beginning his career as a town officer before he was thirty years of age. Filled every important office in the town. Selectman seventeen years and representative to the legislature thirteen years. Two years was member of the Governor's Council. For many years one of the trustees of the school fund of the town and a trustee of the North Yarmouth Academy. A director of the And. & Ken. R. R. one year. Married Jane, daughter of Samuel and Jane Chadbourn, Oct. 27, 1836. About twenty years before his death Mr. Buxton discontinued his business of shipbuilding and settled upon a farm, and at the time of his death (in 1873) was one of the largest real estate owners in the town.

JOSIAH CHUTE, Windham, was the son of Curtis Chute and grandson of Thomas Chute the first settler in Windham. Thomas Chute, the settler, died in 1770, aged 80. His son Curtis was killed by lightning, at Portland, June 5, 1767, leaving a widow and four sons — Josiah, Thomas, John, James, — and a daughter. Three of his sons — Josiah, Thomas and James — were in the service in the course of the revolutionary war — Josiah serving five years. Josiah was born at Windham, June 4, 1759, and died there Oct. 2, 1834. He left a widow and seven children. He was selectman twenty-one years, beginning in 1788 and ending in 1816. Town clerk in 1804. Representative to General Court ten years between 1805 and 1820.

ASA CLAP, Portland. Member of the house of representatives four years, from 1820 to 1823 inclusive. Justice throughout the State, 1821.

ALLEN H. COBB, Durham, was born in Barnstable, Mass., Nov. 21, 1780. His parents moved to Westboro, Mass., when he was a child. At the age of 22 he was received in the N. E. Conference of the Methodist Episcopal Church, July, 1802, and appointed to Greenwich and Warren. In 1804 he was appointed to Bethel, Me., and his appointments continued in Maine until 1809, when he located. He resided nine years in New Gloucester. In 1818 he removed to Durham, where he remained till his death, Sept. 15, 1856. He represented Durham in the Legislature nine years between 1820 and 1829. He was a senator in 1833 and '34. A member of Gov. Smith's Council in 1830 and '31. In 1848, at the conference held in Portland, he was readmitted out of respect for his valuable labors.

ISAAC CUSHMAN, Pownal, was a member of the first house of representatives in 1820.

LOT DAVIS, Baldwin, was selectman six years from 1820, and town clerk for the same period of time.

SOLOMON DENNISON, Freeport, was a member of the house of representatives in 1820.

JOSIAH DUNN, Junior, Poland. Member the first three houses of representatives, from 1820 to 1822 inclusive. State Senator four years, — in 1823, '24, '26, and '27. Member of Gov. Lincoln's Council in 1828. His father, Josiah Dunn, Senior, was a member of the General Court in 1816. Josiah, Junior, married Sally, daughter of Rev. Father Barnes, the first Universalist preacher who ever held a pastorate in Maine. Their son Josiah, 3rd, long a sheriff of the county, was the father of Rueben B. Dunn, the noted scythe and edge tools manufacturer, who died at Waterville, Sept. 9, 1889.

ROBERT D. DUNNING, Brunswick. Selectman in 1809, 1814, 1815, 1816. Member of the Legislature of Massachusetts in 1808, 1809, 1810, 1811, 1812, 1814, 1816. Married Mary, daughter of Capt. John O'Brien, formerly of Machias. She died Oct. 29, 1853, aged 71. Mr. Dunning who was an overseer of Bowdoin College. He died Feb. 20, 1839, aged 59 years.

NICHOLAS EMERY, Portland, born in Exeter, N. H., Sept. 4, 1776; graduated at Dartmouth College in 1795; studied law at Portsmouth, N. H. In 1796 he was assistant instructor in Portsmouth, and had Daniel Webster for one of his scholars. Admitted to the bar and removed to Parsonfield, Maine, in 1798, and was the first lawyer who settled in that town. Removed to Portland in 1807; representative to the first Maine legislature, was appointed to a seat upon the bench of the Supreme Judicial Court in 1834, and took rank with Mellen, Longfellow, Whitman and others. He held and faithfully discharged other public trusts. He died in 1848.

SILAS ESTES, Westbrook, was a member of the General Court in 1816 and 1819. He was a member of the first house of representatives in 1820, and in 1821 he is recorded as having "attended but not a member."

JOSEPH FOGG, Scarborough, was a member of the Maine house of representatives in 1829, '31 and '32.

JOSEPH E. FOXCROFT, New Gloucester. Member of General Court in 1804, and from 1806 to 1810 inclusive. State senator 1820 and '21. The town of Foxcroft (incorp. 1812) was so named in compliment to him (who was a proprietor of the plantation).

CHANDLER FREEMAN, Minot, was the son of Joseph who was one of the pioneers of the town. The first public religious worship in Bakerstown (now Minot, Poland and Auburn) was at Chandler Freeman's house. He united with thirty-eight other persons, on Sept. 8, 1791, in establishing a Congregational Church, and he became one of the deacons. He was the first town clerk (in 1802) and held the office for five years.

ISAAC GROSS, New Gloucester, was a member of the General Court in 1819, and of the Maine house of representatives in 1820, '21, and '23.

ASAPH HOWARD, Minot, was a member of the house of representatives in 1820 and 1821. Died at Auburn, in 1856, aged 87 years and ten months.

ISAAC ILLESLEY, Portland, born March, 1765, died Oct. 1853. He was the son of Daniel who was the fourth son of Capt. Isaac Illesly who was born in Newbury, Mass., in 1703 and removed to Falmouth (now Portland) about 1634, and who was the ancestor of most of the families of that name in Maine. Isaac his grandson, was an active politician in his day. He was register of deeds in 1790 and held the office fourteen years. In 1801 he was appointed by President Jefferson collector of the port of Falmouth, and retained the office until 1829. He was a very accurate and faithful public officer.

PHINEHAS INGALLS, Bridgton, member of the house of representatives in 1820. He had been member of the General Court in 1812. Died in Gorham, April 24, 1858, aged 61 years. Was associate justice of the courts of sessions in 1821 and for years following.

JAMES IRISH³, Gorham, born at Gorham, Aug. 18, 1776. Was son of James² who married Mary Gorham Phinney, daughter of Capt. John Phinney. She was the first white child born in Gorham. James¹ the grandfather of James³ emigrated from Roxfordshire, Eng. about 1710, and located himself at Falmouth (now Portland). He moved to Gorham in 1738, and was among the first few settlers. James³ is referred to by Josiah Pierce in his *History of Gorham* (1862), as then living at the age of 86 years, and as having been much in public life and probably had held more commissions than any other man in Gorham; in the military line, holding nearly all the ranks from a private up to a Brigadier General. In civil life he had been selectman, representative, senator and land agent (1824) of Maine.

JOHN JONES, Westbrook, member of the General Court in 1816 and 1817, and of the Maine house of representatives in 1821 and 1823.

SECOMB JORDAN, Durham, was a member of the General Court in 1812.

BENJAMIN LARRABEE, Junior, Scarborough, was a member of the General Court six years between 1806 and 1819. Member of the Maine house of representatives in 1823.

ZACHARIAH LEACH, Raymond, member of the house of representatives seven times, beginning in 1821 and ending in 1829. A Baptist clergyman.

LOTHROP LEWIS, Gorham, son of Deacon and Major George Lewis (who came from Barnstable, Mass., to Gorham), born at Barnstable in 1763. The historian of the town of Gorham, Josiah Pierce, says, probably no man ever stood higher in the estimation of his fellow citizens than Lothrop Lewis; his morals were pure, his mind lucid; of steadfast integrity, correct behavior, obliging and courteous in manner, prudent in words and action, distinguished for sound common sense, and inflexibly just; his mind was not brilliant, nor its operations rapid, but clear, persevering; with a power of correct discrimination, his conclusions were nearly always correct. Mr. Lewis was much engaged when young as a surveyor of lands, and in locating roads; he was the surveyor in locating the first road from Standish through Baldwin to Bridgton; he was often a referee in important and difficult cases. During his life he held many civil and military offices, and discharged the duties of all with fidelity and to the acceptance of his employers and the people. In the military line he rose to the colonelcy of a regiment of cavalry; in civil life he was a justice of the peace, deputy sheriff, assessor, selectman, representative of his town in the General Court of Massachusetts and in the Legislature of Maine. He was one of Governor Strong's Board of War in 1812-'15. At the time of his death, Oct. 9, 1822, he was Land Agent of Maine, and died at Bangor in the discharge of his official duty. He was twice married, first (by Rev. Caleb Jewett) to Tabitha Longfellow, Jan'y 20, 1794, by whom he had two children (Stephen L., born 1795, and Mary, born 1796). The son, Stephen L., studied law and settled in Athens, Me. Col. Lothrop Lewis' second wife was Mary J., widow of John Park Little and daughter of Judge Prescott of Groton, Mass.; three children.—Annah, Catherine, and Elizabeth,—all deceased previous to 1862. Lothrop Lewis was presidential elector in 1812 (voting for De Witt Clinton).

JOSEPH McLELLAN, Gray. Member of the General Court in 1807 and 1808.

PETER MCKNIGHT, Falmouth, was a member of the General Court in 1819.

THEODORE MUSSEY, Standish, was a member of the house of representatives in 1821. Had been member of the General Court in 1812 and '13. Was town clerk from 1797 to 1803, selectman in 1792, town treasurer in 1791, 1803, '05, '12 and '17. Appointed justice in 1804 and 1812.

JONATHAN PAGE, Brunswick, born in Conway, New Hampshire, October, 1777; moved to Brunswick in 1795, and commenced the practice of medicine there in 1800. He was a member of the Massachusetts Senate several years, and of the Maine Senate in 1829. He was one of the original members of the Maine Medical Society, and for many years a member of the Faculty of the Maine Medical School. He was for more than twenty years a member of the Board of Overseers of Bowdoin College. He died November 18, 1842.

ALBION K. PARRIS, Portland, (son of Samuel and Sarah [Pratt] Parris, and grandson of Benjamin and Millicent [Keith] Parris,) born in Hebron, January 19, 1788; graduated at Dartmouth College in 1806; began the practice of law in Parris in 1809; County Attorney of Oxford county in 1811; member of legislature, 1813; senator, 1814; member of the 14th and 15th congresses; appointed Judge of the United States District Court for Maine, 1814; removed to Portland, 1814; Governor of Maine, 1822-'27; elected United States Senator, 1827; corporate member (1822) of the Maine Historical Society. Appointed associate justice of the Supreme Judicial Court of Maine, in 1828; in 1836 was appointed by President Jackson, Second Comptroller of the Treasury, which office he held thirteen years. In 1852, elected mayor of Portland; in 1810, married Sarah, daughter of Rev. Levi Whitman, of Wellfleet, Mass. He died Feb. 11, 1857. He was first cousin to Virgil D. Parris (born in Buckfield, Feb. 8, 1807; died at Paris, June 13, 1874).

WILLIAM P. PREBLE, Portland, born in York, Nov. 27, 1783. Grad. at Harv. Coll. in 1806. In 1809 was tutor of Mathematics at Harvard. Studied law in the office of Benj. Hasey at Topsam, and in that of Mr. Orr in Brunswick, and then passed on to actual practice. From York, where he first opened an office, he removed to Alfred. There in 1811, he was appointed attorney for the county of York. Removing to Saco in 1813, he there received the appointment of U. S. District Attorney from Presi-

dent Madison in 1814. From Saco he went to Portland in 1818 and made that his permanent home. At the end of nine years practice he was selected in 1820 as one of the three judges composing the highest judicial tribunal of the New State of Maine. Resigned from the bench in 1828, and entered upon diplomatic service. He was appointed Minister Plenipotentiary to the Hague by President Jackson. The King of Holland had been selected as arbitrator in the North Eastern boundary dispute and Judge Preble represented the interests of this country in that important case. The controversy was not ended until 1842, when the Webster-Ashburton treaty established a definite boundary. Judge Preble's agency throughout the whole difficulty was very influential. In 1842, as one of the four commissioners chosen by the Legislature he performed the last political act of his life in adjusting the terms of final settlement. He was a zealous and able promoter of the enterprise of building the Grand Trunk Railway from Portland to Canada (opened to the St. Lawrence in 1853). Judge Preble died Oct. 11, 1857. He married Sept. 1810, Nancy Gale, daughter of Joseph Tucker of York. Two daughters and one son. The son, William P., became a lawyer and served many years as clerk of the District Court of the United States at Portland. Judge Preble married, 2nd, Sarah A., daughter of Thomas Forsaith of Portland, by whom he left one son.

STEPHEN PURRINGTON, Harpswell, born May 7, 1764; succeeded to his father's business of farming and milling; erected a tannery; also engaged in the West India Trade. It is said that when he was twenty-one years of age, he went with the first team that ever entered the town of Bethel and tried the experiment of hauling logs to the Androscoggin to see if they would reach Brunswick. Assisted in forming the Baptist Church in Harpswell. Married, February 26, 1789, Mary, daughter of John Merrill of Topsham; she died May 25, 1836. He was a member of the General Court in 1810, 1813, 1814, 1816, and of the Legislature of Maine in 1820 and 1824. He died November 10, 1843. He was son of Nathaniel Purrington, who was a son of Humphrey Purrington of Georgetown (now Bath).

NOAH REED, Windham, was a selectman in 1808.

JOSEPH ROBERTS, Danville (annexed to Auburn in 1867). A Baptist clergyman. In 1809 the inhabitants of Pejepscot (Danville) sent Lemuel Dyer as "their agent to the court of common pleas next to be holden at at Portland, for the purpose of trying to get off a fine for which the town is indicted for not being provided with a settled minister of the gospel." The preceding year Rev. Joseph Roberts had preached in the town with marked success. Extensive revivals followed, a church of fifty-six members was formed and he was ordained its pastor in Dec. 1808.

This position he held for nearly a score of years, and he was an honored and influential citizen of the town. Was a member of the General Court. It does not appear that he received a regular salary, at least during the latter part of his pastorate, but supported himself in part by agriculture. He retired from the pulpit in 1827.

THOMAS SLEMMENS, Westbrook, was a member of the General Court in 1819.

HENRY SMITH, Portland, was appointed a justice of the peace by Gov. King in 1821.

CALVIN STOCKBRIDGE, North Yarmouth. A justice of the peace in 1825 and later.

EPHRAIM STURDIVANT, North Yarmouth, was a member of the first Maine house of representatives in 1820.

AMOS THOMAS, Harrison, is referred to as a prominent and successful stock-farmer. He was selectman six consecutive years beginning with 1817.

EBENEZER THRASHER, Cape Elizabeth, was a member of the house of representatives in 1820 and 1821.

BENJAMIN TITCOMB, Brunswick, born in Portland, July 26, 1761; studied at Dummer Academy. Learned the art of printing and established himself at Portland; on the first day of January, 1783, "struck off" with his own hands the first sheet ever printed in Maine. About 1798 left the printing business for the Baptist ministry; moved to Brunswick in 1804. Retired from the pulpit at the age of 83, after a forty years' ministry at Brunswick. Opened the Constitutional Convention with a prayer. Died September 30, 1848.

JAMES D. TUCKER, Standish. Selectman six years between 1793 and 1800. Town clerk in 1796.

EZEKIAL WHITMAN, Portland, was born in East Bridgewater, Mass., March 9, 1776. Cradled in poverty and obliged to contend with hardship and privation, Ezekial Whitman's childhood was necessarily one of struggle and painfulness. His uncle, Rev. Levi Whitman, of Wellfleet, became his friend in need, and gave him rudimentary instruction. He was admitted at Brown Uni-

versity in 1791. Taught school in vacations. After receiving his degree he was sent in 1796 by the heirs of a deceased citizen, to Kentucky, making the journey each way on horseback. He was admitted to the bar in Plymouth County, in 1799, but immediately sought a settlement in Maine, with a few law books, pursuing his solitary way through the wilds on horseback. He went to Turner, and then to New Gloucester, but in 1809 permanently established his residence at Portland, and soon gained reputation and popularity and extensive practice. His name appears in the first volume of the Mass. Reports in 1805, and thereafter appears in those valuable records of jurisprudence, and in those of Maine, until his retirement from the judiciary in 1848. In 1808 he was elected to Congress. From 1811 to 1817, he sedulously devoted himself to business. In 1815 and 1816, he was a member of the Executive Council of Massachusetts, and in the latter year a member of the Brunswick convention. In 1816 he was elected to the 15th Congress and afterwards to the 16th and 17th. When on the 4th of February, 1822, the new State of Maine established a Court of Common Pleas, Mr. Whitman was appointed chief justice by Governor Parris. Accepting the office he resigned his seat in Congress, retired from political life, and entered upon his new duties, and discharged them with great ability, until Dec. 1841, when he was appointed chief justice of the Supreme Court in succession to Judge Weston. The latter office he resigned in 1848, in the 73rd year of his age. In Oct. 1852, he returned to his native place at East Bridgewater, where he died. Judge Whitman married 31st Oct. 1799, Hannah, daughter of Cushing Mitchell of East Bridgewater. Three children — a son and two daughters. Mrs. Whitman died March 28, 1852.

LINCOLN COUNTY.

BENJAMIN AMES, Bath, was born in Andover, Mass., Oct. 30, 1778. He was educated at Harvard College, and graduated in 1803; studied law in the office of Samuel Dana at Groton, Mass. was admitted to the bar in 1806, and opened an office in Bath. Engaged in politics; he affiliated with the democratic party, to which he ardently adhered throughout his life; became a leading lawyer; was a ready speaker and logical reasoner, although not ranked as a great advocate or orator, yet having only one superior at Lincoln county bar,—excepting Benjamin Orr. In 1807 he was appointed by Governor Sullivan, County Attorney for Lincoln county, and in 1811, was appointed Judge of the Common Pleas Court, by Governor Gerry, which office he resigned in 1814, resuming subsequently the practice of law in Bath, at which he

continued for several years. In 1820, having been elected to the first Legislature of Maine, he was chosen Speaker of the House of Representatives. In 1824 he was senator from Lincoln county and President of the Senate. In 1827 he was again chosen representative from Bath and that was his last public service. Judge Ames twice married; his first wife was Mary, daughter of Abel Boynton of Westford, Mass.; she died in 1811, leaving no children; afterwards married her sister by whom he had a son and two daughters; the son, George, was educated at West Point, but became a lawyer in the west. In 1811, Judge Ames' brother-in-law, Abel Boynton, came to Bath, and entered into law partnership with him. In 1827, Benjamin Ames went to Cincinnati and opened a law office, remaining there about two years, when, on his way back to Bath where his family had continued to reside, he was taken with a stroke of paralysis in Rhode Island, from which he never fully recovered, but reached home. Subsequently himself and family removed to Houlton, Maine, and were inmates of the family of his brother-in-law, Benjamin A. Boynton, a Captain in the United States army. Judge Ames died there, Sept. 25, 1835, at the age of 57 years.

ISAAC BARNARD, Thomaston, studied medicine and practiced, as a physician, in Union and Camden, but finally settled in that part of old Thomaston that is now Rockland. He married, 1st Catherine Tolman about 1787, and 2nd, Mary (Hastings) Hanson in 1806, and he died Sept. 3, 1823. Member of the General Court nine times between 1805 and 1819, and of the Maine House of Representatives in 1820. Was Selectman in 1809 and 1812, and a justice of peace from 1809 until about the time of his death, Sept. 3, 1823.

JOSEPH BAILEY, Whitefield, was a member of the house of representatives in 1820.

DAVID C. BURR, Litchfield. A farmer; first store-keeper at Purgatory Mills, and located in a building near the grist-mill. Town clerk in 1817, 1825. Bought the first wagon used in town. Captain of company of troops to garrison forts on coast of eastern Maine in 1814. Member of General Court, 1816, '19. Member of Maine house of representatives 1820, '21, '22, '23, '24, '26. Died Nov. 8, 1828, and was buried with Masonic honors.

JOSEPH CARR, Bowdoin. Member of the house of representatives in 1820 and 1821.

CYRUS DAVIS, Montville, was a member General Court in 1815, '16, and '19.

EBENEZER DELANO, Woolwich, was representative from his town in the legislature of 1820, 1821, and 1826.

JOHN DOLE, Alma, was appointed by Gov. King an associate justice of the courts of sessions in 1821, was commissioned also to qualify officers, and was a justice of the peace.

NATHANIEL EAMES, Lisbon. Member of the house of representatives in 1821, '24, '25 and subsequently.

THOMAS EASTMAN, Palermo, was a member of the General Court in 1819, and of the house of representatives in 1820 and 1825.

CYRUS EATON, Warren, born in Framingham, Massachusetts, February 11, 1784, and died in Warren January 21, 1875. He was the 6th child and 2nd son of Benjamin and Mary (Stacy) Eaton, who were the parents of ten children,—three sons and seven daughters. Enjoyed the benefit of town schools and one term at the academy; worked on farm and at brickmaking; in 1804 came to Maine, and taught school in Warren, where in 1805 he established himself for life; married, December 10, 1806, Mary Leonard of Warren, who died February 19, 1853. He taught school many years, and in 1830, was appointed preceptor of Warren Academy, where he remained until 1843. From the years 1817 to 1829 he was town clerk; assessor in 1815 and 1816, and also from 1822 to 1829; a representative to the general court of Massachusetts in 1811, 1812, 1815. Appointed justice of the peace four times. He was an adept in mathematics, in surveying, in Greek, Latin, French and German, so that he could teach those languages and fit students for college. By an accident in 1845 he had the misfortune to lose his eyesight. Notwithstanding this sad deprivation, by the assistance of two devoted daughters he compiled and published in 1851 the *Annals of Warren*; later he compiled the *History of Thomaston, Rockland and South Thomaston*, which was published in two volumes in 1865. As a local historical writer his fame will be enduring.

EBENEZER FARLEY, Newcastle, born January 14, 1777 (son of John who moved from Ipswich to Newcastle about 1773), died April 27, 1865; married September 17, 1816, Mary Wilder of New Braintree, Massachusetts. Selectman in 1816; moderator in 1818; town treasurer for seventeen years,—from 1823 till 1840; representative to legislature in 1836. His daughter Mary (born October 11, 1830) married Henry Ingalls of Wiscasset, December 17, 1835. His son, Ephraim Farley (born Aug. 29, 1817), graduated at Bowdoin College in 1836; representative to legislature 1845, 1851, 1852; state senator 1856, 1868. Member of house of representatives of the 33rd Congress. Died April, 1880.

JOHN FOSSET, Bristol, (son of John Fosset and grandson of Alexander—a Scotchman), was born March 4, 1778. In early life he followed the sea, and having acted as captain of several vessels at different times he was usually designated by that title. His education was only moderate, but being distinguished for his practical common sense, he was often called to fill important offices in the town. He was for twelve or thirteen years a member of the board of selectmen, and for three years was a member of the State Legislature. He was married to Polly Hanley, March 20, 1800, and died March 20, 1848, leaving several children and grandchildren.

ROBERT FOSTER, Union, was the son of Edward Foster, a Massachusetts loyalist who sojourned awhile in Nova Scotia during the revolutionary war. Robert moved with his father from Newburyport or vicinity to Union, during the war of 1812, and opened a store at South Union; orderly sergeant of the local military company in 1814; in 1816 he was one of the corporators of the First Congregational Society of Union; delegate to the Brunswick Convention 1816; school committee in 1816 and 1817; school agent of district 9 in 1822, and candidate for representative to the legislature the same year. Elected deacon in the Baptist Church, 1819.

NATHANIEL GREEN, Topsham, moved to Topsham in 1804, and engaged in lumbering with his brother Peter H. He was selectman in 1828, 1829, 1830, 1839, 1840, 1842, 1843, 1844. Member of the Maine Legislature in 1838, 1839, 1840, 1846. Town clerk in 1840. Member of State Senate in 1820, 1821, 1822, 1823, 1824, 1826. Was sheriff of Lincoln county one year. Was Register of Deeds several years, and at the time of his death (aged 66 years) was a member of the board of County Commissioners. Died April 12, 1848.

ELIHU HATCH, Bowdoinham, member of the house of representatives in 1820 and 1825.

MARK HATCH, Putnam (incorp. 1811, name changed to Washington, 1823). (No facts concerning Mr. Hatch have been obtained after diligent search by the compiler at the State library.

JOSHUA HEAD, Waldoborough, was a member of the house of representatives in 1822. Justice of the peace and quorum, 1821. Postmaster in 1821 and later. President of the Lincoln county Bible society, 1821.

EBENEZER HERRICK, Bowdoinham, member of the General Court, 1819. Secretary of the Senate of Maine, 1820-'21. Removed to Lewiston, and elected to the 17th, 18th and 19th congresses (1821 to 1825). Member of the Maine Senate in 1828. He died May, 1839. His daughter, Mary G., married in 1833, John Blaisdell. One of his sons, Anson G. Herrick, was a newspaper publisher in Wiscasset, Augusta and Bangor, between 1830 and 1835. In 1835 he went to New York and established the Sunday Atlas which he published for twenty years or more, and died wealthy. Another son, J. L. Herrick, removed to New York and died there in 1839.

JOHN HERRICK, Lewiston. Member of the General Court four years—1800, 1801, 1802 and 1806. Died in 1834, aged 82 years. His sister was Mrs. Elizabeth Ham, who died the same year, aged 80 years. Mr. Herrick was appointed a justice of the peace and quorum in 1821 by Gov. King.

EDWARD KILLERAN, Cushing, member of the General Court, 1812, 1814 and 1819. State Senator, 1821, 1823.

WILLIAM KING, Bath, (seventh child of Richard,) born at Scarborough Feb. 9, 1768; half brother to Rufus who was well known in national politics in his generation. William's early scholastic advantages were meagre. While Rufus was studying at Harvard College, William was tending a saw-mill in Saco. While a young man, he removed to Topsham,—and to Bath about the year 1800. He acquired a fortune in mercantile pursuits; elected the first governor of Maine; was authorized to procure plans and estimates for the construction of the State Capitol at Augusta. From 1831 to 1834 was collector of customs at Bath. A Freemason, and the first grand master in Maine. Was principal proprietor of the township of Kingfield, which was named in his honor. Was a corporate member of the Maine Historical Society. He died at Bath June, 17, 1852; his widow died at Portland, July 4, 1857.

ISAAC LILLIE (now Lilly) Dresden, was a justice of the peace in 1825 and for a number of years following.

JACOB D. LUDWIG, Junior, Waldoborough, was a member of the General Court in 1818 and 1819. Representative to the Maine legislature in 1823. He was born in Boston, 1776. Removed to Broadbay (Waldoborough). Married Susan, daughter of Robert Hutchins, in 1797, and died Nov. 5, 1858. Wife died Feb. 24, 1838. His father (Jacob, born in Germany in 1730,) was an orderly sergeant in the French and Indian wars and commanded a

company in the revolution and was the first representative from Walldoborough to the General Court. The son, Jacob, Junior, had but few early advantages of education. Possessing a strong and active mind, he improved every opportunity to obtain knowledge. Was one of the selectmen for more than a quarter of a century, a deputy sheriff more than thirty years. A justice of the peace and quorum, 1821.

NATHANIEL MARTIN, Camden, was born in London, and came to America when a boy. Arriving at adult age, he settled on Fox Island, where he traded until 1803, when he removed to Camden and went into trade there. In 1804 he was chosen harbor-master. Jan. 11, 1806, he married Miss Rhoda Foote, by whom he had three sons and one daughter. He acted a conspicuous part in the Embargo times — the period of the last war with his father country — and also in every important affair in which the interest of a public spirited citizen would be enlisted. He often presided as moderator at town meetings and was chosen in 1819 to represent his town in the General Court. He was selectman nine years and in fact filled every office of trust within the power of a town to confer upon a citizen. He left Camden in 1823, and became a commission agent in New York city, for the sale of Maine lime — which soon superseded that of the North river quarries on account of its superior qualities. He died in New York.

WILLIAM MCCLINTOCK, Bristol, born Sept. 29, 1778. His father was a native of Ireland, but was brought to Massachusetts when an infant. He married Margaret Fullerton of Boothbay, and died June 3, 1779, in the 49th year of his age. His widow (Oct. 5, 1786) married Dea. Wm. Brown, and the son William was brought up in his family. William worked on a farm, and a part of the time was employed as seaman. When he attained the age of twenty-one he went on his second voyage as captain. He was much employed as surveyor of land, and served the town in various important offices, as selectman and representative to the Legislature. He was a member of the General Court in 1810.

FERGUS M'CLAIN, Hope. Member of the General Court four years, — 1809, '10, '12 and '13. Member of the Maine house of representatives in 1820-'21, and in 1824-'25.

PARKER MCCOBB, of Phippsburg, was a native of ancient Georgetown on Arrowsic island (born March 30, 1785), and was the youngest son of Brig. Gen. Samuel McCobb of Revolutionary fame. At early age he adopted a seafaring life, sailing with his uncle Captain Thomas McCobb, of Phippsburg, and rose to the

command of deep-seagoing vessels. His uncle died young and Parker McCobb married his widow who had two young sons whom he carefully brought up as though they were his own, graduating them from Bowdoin College. He succeeded to the business of his uncle, and, quitting the sea, engaged in vessel building, milling and trade. He owned his own vessels, which were employed mainly in the European and West India trade. He made his home and the center of his business at Phippsburg Center village, and acquired wealth and society and political influence, becoming the leader of the Whig party of the town, which he kept in ascendancy during his residence there. When only thirty-four years of age he was chosen a member of the Constitutional Convention of 1819, which framed the Constitution that was adopted by the new state of Maine, in 1820; for many years was continuously a member of the state legislature; in 1830 was a candidate for Congress, and filled all the public offices of the town he cared to accept. Having retired from active business, he moved to Portland in 1835, where he died in 1847. In 1832 he was chief founder of the Commercial Bank at Bath, and was its president for many years. He was considerably identified with the business of Bath, in which city he owned much real estate. His house in Phippsburg was notable for open and generous hospitality, and the center of social life of the place, and the frequent resort of the best class of people from Bath and elsewhere. In person, he was of distinguished appearance, and genial in his intercourse with all classes. Accustomed with his wife, to spend his winters in Washington, he at one time fell into company, as stage passenger, with Judge Story and Josiah Quincy, Senior, and the latter in his very readable book, *Pictures of the Past*, wrote that in personal appearance, Mr. McCobb had more the style of a judge than did Judge Story himself. It may be of interest to add, that when Lafayette was on a visit to this State in 1825, that a barouche owned by Mr. McCobb, was sent for and used to convey the General into Saco and Portland, as the only carriage in the State fitted for the purpose.

JOHN MCKOWN, BOOTHBAY. Member of the house of representatives in 1820.

JOEL MILLER, St. George, was representative to the General Court in 1814, and in the Maine Legislatures of 1820-'21. He was State senator in 1824 and 1828. Coroner and road committee, 1827. Warden of the State Prison, 1829, '30.

JOHN MILLER, Warren, born Nov. 16, 1781; married, 1st Margaret Robinson of St. George; 2nd Mrs. Elizabeth Vaughn. Representative to the legislature in 1820 and '21; selectman 1820-'23, inclusive.

JOHN NEAL, Litchfield, born in Bath, March 24, 1767; married in 1790, Betsey Hutchinson. Land surveyor and farmer. Appointed justice of the peace June 16, 1807, by Governor Sullivan. Wife died Feb. 11, 1821, aged 48 years. Married 2nd, November 8, 1821, Hannah Fuller. He died April 20, 1834. Selectman for twenty-nine years, beginning with 1795. Town clerk in 1803, 1809, 1815, 1824; town treasurer, 1811. Of his eight children, John Neal, junior, (born Jan. 24, 1791,) was commissioned, Feb. 20, 1815, by President Madison, a first lieutenant in the 45th regiment of infantry; the other children were: Polly, born Feb. 8, 1793, married Joseph Clifford (the late John Clifford of Augusta was his son, Mrs. James I. Plummer of Augusta is his daughter); Samuel, born Dec. 18, 1794; Arthur, born Jan. 26, 1797, married Polly Marston (their 5th son, David T. Neal, born April 1, 1834, is now [1894] a citizen of Augusta); David Neal, born July 4, 1799; Betsey, born Jan. 24, 1802; Peleg, born March, 1803; Daniel, born Feb. 10, 1808. Was appointed associate justice of the courts of sessions, 1821. Was a member of the general court in 1806, '09, '10, '13 and '16.

STEPHEN PARSONS. Edgecomb, was a member of the house of representatives in 1820, 1821, 1823 and 1824. State senator in 1826 and 1827.

ISAAC G. REED, Waldoborough, was a member of the house of representatives in 1820. Counsellor at law. Justice of the peace and quorum, 1821. Col. of 3d reg't, 2d Brig. 4th division, Me. Militia, 1821.

WARREN RICE, Wiscasset, was the eighth child of a family of nine children, son of Dr. Thomas Rice (who was born in Sutton, Mass., 1737, grad. Harvard Coll. 1756, settled at Wiscasset in the practice of medicine, 1760, died 1812). The son Warren died Dec. 13, 1851. Was appointed justice of the peace in 1827, and public administrator in 1829. Register of deeds, 1821. Recording secretary of the Lincoln county Bible Society, 1821.

Captain Moses Riggs of Cape Ann, now Gloucester, Mass., married Miss Mary Ellery of Massachusetts. They had five sons. He built a vessel, and he and one son went to sea in it, never to return, leaving the widow with the whole care of the family. Benjamin, a bright lad of this family, was bound out an apprentice to Capt. James Jewett of Westport, Maine, a fisherman. He lived with Capt. Jewett until he bought his freedom. He was born in Cape Ann, Mass. March 27th 1759. Died in Georgetown, Maine, January 2nd, 1846, aged 86 years, 8 months, 5 days. Ruth Pearl Riggs, born December 31st, 1760, widow of Benjamin

Riggs, died January 13th, 1857, aged 93 years, 13 days; married Sept. 17th 1782. Eleven children, four sons and seven daughters. He began life fishing and farming in a small way, and with firm strong hands, and united efforts their lives were prospered, and blessed with plenty, even abundance; though three times during the revolutionary war, he with his vessel and cargo were captured, property confiscated and he imprisoned at Bagaduce (now Castine). He came out through these hardships a bitter enemy to John Bull and all his hosts by sea and land. His business from a small beginning became quite varied and extended, owning sawmills (two), stocking them and shipping the lumber in his own vessels coastwise and foreign. Importing molasses, rum and sugar. He owned in real estate in his and adjoining towns, -Westport, Southport, Arrowsic and Bath; owned in the old turnpike road from Bath to Brunswick; owned in the first cotton factory in Brunswick, also closely connected in business with Hon. Peleg Tallman and others, of Bath, besides his extensive retail and fish business at his home in Georgetown, Maine. He built vessels for his own use and trade. He, wife and all his family, attended and supported regularly the Methodist Episcopal Church. His mother, Mrs. Mary Ellery Riggs (who lies beside him in the family cemetery at Riggsville) was closely related to Mr. William Ellery, one of the signers of the Declaration of Independence, and afterwards Collector of Customs at Newport, R. I. We find the family of Mrs. Ruth Pearl Riggs earnest supporters of our efforts to gain and maintain our national independence. A member of her family rose to a colonel and when his men were discharged you could track them, as they marched, by the blood from their feet on the ground. He spent the last of his fortune in furnishing them shoes to travel to their friends and homes. It took a hundred dollar bill of the soldiers' money scrip to buy him a glass of grog in those days. Colonel Pearl spent his entire property for the cause of liberty and never received a cent in return from the government.

As the time approached for the separation and set-off of the district of Maine from her old mother Massachusetts, and public sentiment had fairly ripened into action in 1818 and 1819, Mr. Benjamin Riggs was chosen a delegate to the constitutional convention of Maine. At that time the public sentiment of Maine and Massachusetts was very different. Maine was free and desired liberty as to many points which Mr. Riggs was a strong and firm supporter of; while Massachusetts still adhered to too many old laws that did not suit the Maine people. The struggle was finally settled and Maine became a separate state of the Union in 1820.

Mr. Riggs was a member of the Massachusetts Legislature from the district of Maine. He ended a busy life of 86 years at his own home among all that was near and dear to him and was laid to rest in his own family cemetery, which he forever reserved for his relatives and himself, and there they rest, mother, son,

and wife, beneath the shadow of the monument erected to his memory by his children.

Family of Benjamin Riggs of Georgetown, Maine: Mary, born June 8th, 1783, died June 18th, 1832; James, born January 5th, 1785, died October 7th, 1866; Sarah, born September 17th, 1787, died March 2nd, 1866; Betsey born March 14th, 1790; Alice, born Jan. 29, 1793, died April 12th, 1874; Moses, born June 18th, 1795, died May 3rd, 1886; Nancy L., born September 12th, 1798; Susan, born September 9th, 1801; Warner, born April 17th, 1804; Benjamin F., born November 4th, 1805; Eliza J., born June 2nd, 1809; seven daughters and four sons. Kirvin W. Riggs, Esq., merchant, of Georgetown, is a grandson.

EPHRAIM ROLLINS, Nobleborough, was a member of the house of representatives in 1820.

JESSE ROWELL, Jefferson, was a member of the house of representatives in 1820.

DANIEL ROSE, Boothbay. Practiced medicine at Boothbay until his removal to Thomaston in 1824. Was of the committee (with Benj. Ames of Bath and Thomas Bond of Hallowell,) who purchased the site for the State's Prison at Thomaston. Dr. Rose was the first warden of the prison, appointed March 23, 1824. Appointed justice of the peace and quorum Feb. 7, 1828, elected land agent March 8, 1828 serving two years, and again elected in 1831 (one year). One of the original members of the Me. Hist. Society. Member of the general court in 1808 State senator, 1820, '21, '22 and '23, and president of that body the last two years. He died in Thomaston, Oct. 25, 1833, aged 62 years. His wife died Sept. 1844, aged 56 years.

JOSEPH SMALL, Wales, was a member of the house of representatives in 1825 and 1828.

JAMES SMALL, Lisbon, was one of the early settlers of the town. The town meetings were held at his house for several years. Was a selectman for seven years between 1810 and 1820. Town clerk in 1817. He was a member of the Brunswick convention with Ezekiel Thompson (of Lisbon) in 1816.

JOHN SPEAR, Thomaston, was son of Capt. Jonathan Spear, (born in Braintree, Mass. June 19, 1726 or 1723) born Sept. 22, 1775. Member of General Court in 1815 '16 and '17. Town treasurer six years between 1819 and 1827. Selectman, 1815. Inspector of State prison from 1824 to 1828. Ensign in 1799. Lieut. in 1806; capt. in 1811; major in 1812; captain of Coast

Guards 1812 and of Militia in 1817. Married 1st, Ruth Stoddard, June 19, 1797. Married, 2nd, Susan H. (Ingraham) Robbins, Sept. 24, 1827. Married, 3rd, Sarah U. Butler. Died at Eagle Island, where he was light keeper, Jan. 6, 1848.

MELZER THOMAS, Friendship, was a representative to Legislature in 1823, '30 and '33.

SAMUEL TUCKER, Bristol, born in Marblehead, Nov. 1, 1747, and when a boy began the life of a seaman. He was in London when the news of the battle of Bunker Hill was received there. He found a passage homeward on a vessel belonging to Robert Morris of Philadelphia. Morris gave him letters to Gen. Washington who was then at the head of the army at Cambridge. He received a commission from Washington, dated Jan. 20, 1776, to command the armed schooner *Franklyn*, to prey upon the vessels of the enemy. He did so good service that Sept. 3, he was transferred to the armed schooner *Hancock*, and at a later period to the frigate *Boston*. This last commission was dated March 15, 1777. In 1778, while in command of the *Boston*, he was ordered to convey John Adams to France, to which country Adams had been appointed Minister. In the autumn of 1780 the *Boston* was captured by the British in Charleston (S. C.) harbor, and Commodore Tucker returned home on parole. After exchange, while cruising near the mouth of the St. Lawrence in the privateer *Thorne*, in the summer of 1781, he was compelled to again surrender to a superior force of the enemy, but after being landed on Prince Edward's Island, he escaped in an open boat to Boston. When he returned from Charleston in 1780, he found himself a rich man as the result of the prizes he had taken. But his riches soon took to themselves wings, and to relieve himself from financial embarrassment he sold his property in Boston, and in 1793 purchased a farm in Bristol, Maine, where he was received with great cordiality, and where he lived the rest of his life. He was elected eight times to the General Court and to the Legislature of Maine, in 1820. In 1820 he was an elector of president and vice president, and was the messenger to convey the vote of Maine to Washington, where he was received with honors due him for his former services. Having many years before received the thanks of Congress for his gallant services in the revolution, he was, by the rules of Congress entitled to admission at all times to the floor of both houses. Other minor offices he often held, as that of Selectman of Bristol, and of Bremen after the latter was incorporated (1828), as his residence was in that town. He died at his home, March 10, 1833. His wife died less than two years before him. They lived together sixty-three years. (See Sheppard's *Life of Commodore Samuel Tucker in the American Revolution*, Boston, 1868.)

JOSHUA WINGATE, Junior, Bath, was born in Amesbury, Mass. June 28, 1773, and graduated from Harvard College in 1795. He married Julia C., daughter of Gen. Henry Dearborn, November 17, 1799. During the time his father-in-law was Secretary of War (1801-1809) Mr. Wingate was for several years a clerk in that office. President Jefferson gave him the Postmastership of Portland, which office he resigned to accept the Collectorship of Bath; he resigned the last position in 1822, and moved to Portland, and in the same year was candidate for Governor against Albion K. Parris who was elected. In 1823 a like canvass took place between the same candidates, and with the same result. He was president of the Portland branch of the United States Bank from its establishment until the expiration of its charter, and one of the original members of the Maine Historical Society. He had one son, who died at Roxbury April 24, 1826, and a daughter Julia who married Charles Q. Clapp of Portland, and who died in 1877.

ABIAL WOOD, Wiscasset, was a son of Gen. Abial Wood, a prominent citizen of Maine during the last quarter of the 18th century. Abial Wood, the son, became a distinguished merchant of Wiscasset, and a member of Congress from the District of Maine from 1813 to 1815. From 1807 to 1811, and in 1816, he was a member of the Massachusetts legislature. He was a presidential elector from Maine in 1812 (with Samuel Parris of Hebron, Lathrop Lewis of Gorham, Lemuel Paine of Winslow, James McLellan of Bath, Wm. Crosby of Belfast,—they voted for DeWitt Clinton). A state councillor (under Gov. King) in 1820 and '21. He was subsequently appointed state bank commissioner, and while on an official visit to Belfast he died at the Eagle Hotel in that town, Oct. 25, 1834, aged 62 years. Mr. Joseph Wood, the secretary of the Maine Press Association, and editor (1894) of the *Maine Coast Cottager* (Bar Harbor and Portland) is a grandson.

KENNEBEC COUNTY.

BENJAMIN ABBOT, Temple, was a justice of the peace in 1827.

EBENEZER BACON, Waterville. Selectman eleven years from 1802. Had three children of school age in 1808, and paid a tax of \$10 94 in 1809. Member of the General Court in 1819. Died in 1847, aged 81 years.

ALEXANDER BELCHER, Winthrop, moved from Northfield, Massachusetts, to Winthrop in 1807, and practiced law until his sudden death in May, 1854, at the age of 75 years. The historian of the town of Winthrop, Rev. David Thurston, says of him: "Though not distinguished as a pleader at the bar, he was well skilled in the principles of law, and was a judicious and able counselor." He was one of the original corporators (in 1818) of the Kennebec Agricultural Society; he was town treasurer from 1830 to 1836, also from 1848 to 1851; he was selectman in 1810, 1811, 1815, 1816, 1819, 1837.; Representative in General Court, in 1814, 1815, 1816 and 1819.

JAMES BRIDGE, Augusta, eldest son of Edmund and Phebe (Bowman) Bridge of Pownalboro (now Dresden), was born Sept. 21, 1765; graduated at Harvard College, 1787; read law in the office of Theophilus Parsons at Newburyport, in company with his classmate at Harvard, John Quincy Adams; established himself at Augusta (then Hallowell) and opened a law office in the Old Fort Western. He married, July 4, 1797, Hannah only daughter of Judge Joseph North; was representative to General Court, 1795, '98; town moderator, 1800. Appointed Judge of Probate at the organization of the county of Kennebec in 1799, which office he resigned in 1804. In 1802 he took into law partnership Reuel Williams, who had read law with him, and the firm engaged largely and profitably in the purchase of unimproved lands. Retired from the practice of law in 1812, was a member of the executive council of Massachusetts in 1818, and was appointed one of the Commissioners under the Act of Separation. Seven children: Edmund Theodore, Margaret (m. Wm. A. S. North), James, Horatio (classmate and chum of Nathaniel Hawthorne), William, Mary (m. Rufus C. Vose.), Hannah (m. Daniel William). Judge Bridge died Jan. 1834; his wife died April 1822.

RUFUS BURNHAM, Unity, member of General Court in 1813, '16, and '19. Member of the house of representatives in 1820, 1821 and 1828.

DANIEL CAMPBELL, Winthrop, born in Chester, New Hampshire, a graduate of Dartmouth in 1801; moved to Winthrop and practiced law for several years; was town moderator in 1818 and 1819. In May, 1824, he received the approbation of the Kennebec and Somerset Association as a preacher of the gospel, and in 1827 was ordained pastor of the Union Church, Kennebunk; was pastor of the West Church, in Oxford, New Hampshire, a number of years, and died in 1849, at the age of 70.

JOHN CHANDLER, Monmouth son of Joseph Chandler—(a captain both in the French and Revolutionary wars—died in camp Sept. 1776) was born at Epping, N. H., Feb. 1, 1762; he became a soldier in the revolutionary war, and also in the war of 1812, serving in the latter as brigadier general, and suffering the misfortune of being wounded and made prisoner; he came to the district of Maine about 1780, and settled at Monmouth; was plantation clerk and assessor before the town was incorporated, and selectman and assessor many years after its incorporation, and also town clerk; was postmaster of Monmouth as soon as a post-office was established there in 1794; assisted in taking the census of Maine, 1790, and was twice employed as collector of the direct tax of the United States; councillor and senator from Maine, 1803; represented the Kennebec district in congress four years from 1805; sheriff of Kennebec, 1808; elected Major-General in Militia, 1812; Senator in Congress for nine years after the Separation; Collector of Portland, from 1829 until 1837, when he removed to Augusta,—where he died Sept. 25, 1841. He married Aug. 27, 1783, Mary Whittier, who died at Bath in 1846, aged 82 years.

JAMES L. CHILD, Augusta, Assistant Secretary of the Constitutional Convention, was son of James Child, who settled at Hallowell (in that part now Augusta) in 1786; born May 31, 1792; studied law with Whitwell and Fuller, and Bridge and Williams; admitted to bar in 1812; captain of a company of militia at Wiscasset in 1814. Engaged in commercial business at Charleston, South Carolina, 1817; engrossed with his own hand on parchment the new Maine Constitution. In 1821, clerk of commissioners to divide the property between Massachusetts and the then new State of Maine. Removed from Augusta to Alna in 1822. November 10, 1822, married to Jane Hale of Alna. Clerk of the first and twelve subsequent sessions of the legislature; in 1820 was of the commission to make a new valuation of the State; in 1823 appointed by Governor Parris division inspector with rank of lieutenant-colonel; in 1832 resumed the practice of law at Augusta. He died August 16, 1862.

JOHN S. COLBATH, Rome. Selectman in 1817, '18 and '19.

DANIEL CONY, Augusta, son of Samuel and Rebecca (Guild) Cony, born at Shutesbury, Mass., Aug. 3, 1752; prepared for the medical profession; participated, as a volunteer, in the events connected with the battle of Lexington; on Nov. 4, 1776, Susanna Curtis of Sharon, Mass.; he soon after joined the army of Gen. Gates at Saratoga, with rank of adjutant; at the age of 26 he resigned his commission and with his family joined his father and family, who had removed from Shutesbury in 1777 to the Fort Western Settlement in Hallowell. He was in public life for

many years; represented the town of Hallowell in General Court from 1786 to 1792, and then the new town of Augusta in 1797. He served as town moderator fourteen years, beginning with 1789; town clerk, 1785, '6, '7; selectman 1786, 1789; was a senator in the General Court, and a member of the executive council; a member of the Massachusetts Medical Society; one of the electors who chose George Washington president, and John Adams vice president, for their second term; he was a Judge of the Court of Common Pleas and a Judge of Probate for Kennebec County previous to the Separation of Maine from Massachusetts, and was appointed Judge of Probate under the new constitution, which office he held until his resignation in 1823. He was instrumental in obtaining a charter for Hallowell Academy (1791), and Bowdoin College, 1794; he founded and endowed Cony Female Academy, at Augusta, in 1815, which in 1879 was merged into the Free High School of that city. He died Jan. 21, 1842; his wife died Oct. 25, 1833. Judge Cony had four daughters: Susan Bowdoin (m. her cousin Samuel Cony); Sarah Lowell (m. Reuel Williams); Paulina Bass (m. Nathan Weston); Abigail Gaild (m. Rev. John H. Ingraham). Two grandsons have been Governors of Maine,—Joseph H. Williams (1857-'8) and Samuel Cony (1864-67); the Chief Justice of the United States, Melville W. Fuller, is a grandson.

SAMUEL CURRIER, Readfield, physician, postmaster from Aug. 2, 1803 to 1829. Town clerk in 1805. Representative to the Legislature, 1820-'21. Died in 1848. Justice of the peace in 1821. Col. 4th reg. 1st brig. 2nd div. Me. militia, 1821. Representative to the General Court in 1808.

NATHAN CUTLER, Farmington, born in Lexington, Massachusetts, May 29, 1775; graduated at Dartmouth in 1798; admitted to bar at Worcester in 1801; removed to Farmington, Maine, where he built up a large practice; represented the town in the General Court from 1809 till 1811, and also in 1819; member of Maine Senate in 1828 and 1829,—the latter year president of that body, by virtue of which office he became governor of the State for the unexpired term of Gov. Lincoln, who died October 8, 1829. In 1832, was an elector-at-large for president and vice president, when Maine threw its electoral vote for Andrew Jackson. The last public office which Mr. Cutler held was that of representative to the legislature in 1844. In 1804 he married Hannah Moore, of Weston, Massachusetts,—seven sons and two daughters. Mrs. Cutler died in 1835; Mr. Cutler died June 8, 1861.

JACOB DAVIS, Gardiner. Town representative in 1819. Selectman and assessor nine years, beginning in 1820. A conspicuous, active and useful citizen. Paid a tax in 1851 of \$79.90.

BENJAMIN DEARBORN, Hallowell, was of the prominent business firm of Dearborn and Coolidge, when Hallowell was relatively a large commercial city. He was a captain of the Hallowell Light Infantry. His residence was at the corner of Union and Middle Streets, and is now (1894) standing,—the Thomas Hovey house. Captain of the Hallowell company in defence of Wiscasset in 1814. Member of General Court, 1819.

SIMON³ DEARBORN, Junior, Monmouth, was a son of Simon² Dearborn, Senior, who was son of Simon¹ Dearborn of New Hampshire. Simon² was a brother of Gen. Henry Dearborn, a well-known officer of the revolutionary army, who, about the close of the war took some 5000 acres of wild land in the present town of Monmouth in exchange for property in New Hampshire and then took up his residence at Pittstown (now Gardiner). Simon² with his brother Benjamin, came from Epping, N. H., about 1782, and began to improve farms on their distinguished military brother's township. Simon² was among the first plantation officers. In 1789, the settlers voted to petition for an act of incorporation and to call the new town Monmouth in honor of Gen. Dearborn's brilliant and daring conduct at the battle of Monmouth, N. J., and Simon² was selected to forward the petition to the General Court. Simon³, Junior, was town clerk in 1808, selectman in 1814, treasurer 1812. Member of the General Court five times between 1804 and 1812.

CHRISTOPHER DYER, New Sharon, was a member of the Maine Legislature in 1823.

EBENEZER EATON, Wilton, was a soldier of the revolution, and a member of the house of representatives in 1821. He died Nov. 1838.

THOMAS FRANCIS, Leeds, was a member of the house of representatives in 1820 and 1825.

JOSHUA GAGE, Augusta, born on Cape Cod, 1763, moved to Augusta (then Hallowell) in 1795, and entered into mercantile business; became master mariner; his firm (J. & J. Gage) erected and occupied the brick building that since was torn down to give place to the present Augusta post-office; he built the "Gage house" on Grove St. (the homestead of the late Ira D. Sturgis). He was chairman of the selectmen in 1803, and also member of the board from 1811 to 1816; represented the town in 1805, '6, '7, and again in 1815, '16, '17; elected to Congress in 1817; was of the executive council during Gov. Parris' administration, and served Kennebec County as treasurer twenty-one years. He was of the committee of nine from Augusta to wait upon Lafayette during the latter's visit to this country in 1825 and extend to him an invitation to visit Augusta. Was senator in the first two Maine Legislatures. He died Jan. 24, 1831.

JABEZ GAY, Farmington, was a son of Peter Gay who was a native of Stoughton, Mass., and who removed in 1789 from Meduncook (now Friendship) and settled in Farmington. Peter Gay was a blacksmith. Jabez, the son, was a petitioner for the incorporation of the town in 1793, and a selectman in 1804, and in 1820 represented his town in the first legislature of this State. He was a member of the first meeting house society in the town, 1802. In 1811 he was appointed one of the trustees of the Farmington Ministerial and School Funds.

ABIAL GETCHELL, Vassalboro, selectman twelve years from 1803, and town clerk in 1817. Postmaster from March 25, 1818, to Jan. 14, 1826. Member of the General Court in 1809. His name first appears on the tax list of his town in 1800, and after that time occurs frequently on the town papers until 1820. It appears that he died in 1855, at an advanced age, and that his funeral sermon was preached by Rev. Mr. Sleeper, a Methodist minister. He left a son by the name of Abial John Getchell, whose widow and two sons now (in 1894) live in Vassalborough.

WILLIAM HILTON, Malta (now Windsor), was a selectman four years from 1813. Town clerk in 1813 and 1815. Town treasurer 1812. A member of the General Court in 1819.

AMBROSE HOWARD, Sidney, physician. Assisted with John Sawtelle, Paul Bailey, James Shaw, and Jonathan Matthews, in building the first meeting house in Sidney (1821), on land now (1894) owned by Bradford Sawtelle; the meeting house has been changed to a barn. Dr. Howard was selectman eleven years, beginning with 1810; he was town clerk in 1822. He died Dec. 16, 1834, aged 59 years, 5 mos. and twelve days; his wife, Desire, died Feb. 11, 1836, aged 62 years, 4 mos., 17 days. They are buried in the cemetery on the hill nearly opposite Five Mile Island. Dr. Howard was representative to the first two Maine legislatures. A justice of the peace and quorum, 1821.

REUEL HOWARD, Sidney, major in the militia. The late Rev. William A. Drew referred to him in *Drew's Rural Intelligencer* (1855) as "one of the patriarchs of Kennebec county, much respected and very useful through life." Major Howard died Oct. 18, 1856, aged 79 years; his wife, Mary, died Nov. 15, 1861, aged 83 years. The daughter of their oldest son, Columbus, married James E. Fuller of Augusta, merchant; Joseph, another son, is (1894) a well known farmer in Sidney. Maj. Howard and his wife are buried in the cemetery near Five Mile Island, Sidney. Member of the legislature 1825, '26 and '28. Major of Lieut-Col. Stone's regiment of the 8th division, Maine militia, 1814.

JOHN HUBBARD, Readfield, born in Kingston, N. H., in 1759, and like his father was a physician. On removing to Maine in 1784, he took with him his widowed mother, Joanna Hubbard, who died in Readfield in 1807, in the 75th year of her age. His was the life of a country doctor in a new and sparsely settled country. For the greater part of his life he carried on a farm near what is now the village of East Readfield. He occupied a prominent position in the community where he lived, and in 1812 represented his district in the General Court. At the first election for the town he was chosen a selectman, and served as such nine years; he was the first town clerk. His death occurred April 22, 1838. He had twelve children, of whom the eldest, John (born March 22, 1794, died Feb. 6, 1869) was a distinguished physician of Hallowell, and Governor of Maine in 1850-'53.

SANFORD KINGSBURY, Gardiner, born in Claremont, N. H., graduated at Dartmouth in 1801, with Daniel Webster; removed to Gardiner in 1804; cashier of Gardiner Bank in 1814, practiced law until he took his seat on the bench of the Court of Common Pleas in 1821; state senator in 1828-'29; purchased of the Bingham's heirs the plantation of Kingsbury in 1834, and moved there; state treasurer in 1841; died suddenly in Gardiner, March 1, 1849, aged 66 years. The plantation of Kingsbury takes its name from him.

JOSEPH LAMSON, Wayne, was treasurer of his town in 1804, and one of the selectmen from 1811 to 1815, and also in 1819 and 1823.

WARD LOCKE, Chesterville, was elected a member of the first two houses of representatives under the new constitution—in 1820-'21. Settled at Chesterville in 1813. A minister of the Free Baptist denomination. Mr. Locke had been pastor of a church in London and Canterbury, N. H., and removed from that State to Dist. of Me. in 1792. Soon after he arrived in Maine he began preaching in Farmington in a barn. This barn was situated on the side of what is now Riverside cemetery. A tradition regarding these barn services, has been related in Farmington, to the effect that he aroused one of his hearers, Ephraim Norton, to a sense of too great pride and for the purpose of mortifying this pride Mr. Norton went to church the next Sunday, to this barn, barefooted. But when he arrived and saw his neighbors commencing together, the same pride got the better of him and he hid his bare feet in the haymow. In the winter at the close of 1792 a revival of religion followed the labors of Mr. Locke, and shortly afterwards he baptized his converts, and March 29, 1793, he organized the first Free Will Baptist Church in those parts, and he became the first pastor.

DAVID MCGAFFEY, Mt. Vernon, came to Mt. Vernon with his two brothers—John B. and George—in the early part of the present century. Was a selectman in 1816. Representative to the legislature, 1830, 1839, 1840. Lieutenant Colonel of regiment of militia in 1814. His wife Liberty died Oct. 1855, aged 74 years.

SAMUEL MOODY, Hallowell, born in Newbury, Mass., Feb. 3, 1765; graduated at Dartmouth College in 1790, and six years later came to Maine and became preceptor of Hallowell Academy. In the Appendix of Wm. Willis' "Courts, Law and Lawyers of Maine" (1863), is the following reference to Mr. Moody taken from the autobiography of John H. Sheppard, register of probate for Lincoln county, from 1817 to 1824: "I was seven years," says Mr. Sheppard, "under the care of Samuel Moody, preceptor of Hallowell Academy, since deceased, a thorough Dartmouth scholar and superior teacher. I can see in the visions of the past, his tall, majestic form, like an Admiral on the deck of a frigate, treading the academic floor, arrayed in small clothes, the costume of the times, with his bright blue eyes watching over his one hundred pupils at their desks. He was severe at times but affectionate, and used the ferule as a sceptre of righteousness. I loved him and was a favorite, for he let me study the Eclogues of Virgil in school hours under the groves of the Academy. His scholars turned out well in the world. Among them were Gen. H. A. S. Dearborn, Nathan Weston, Reuel Williams and others."

HERBERT MOORE, Clinton. Selectman ten years from 1814. Lieut.-Colonel of militia in defence of Wiscasset, 1814. Member of General Court in 1819, and of the legislature of the new state in 1820, '21 and '23.

PEASLEE MORRELL,⁵ Dearborn, was the son of Peaslee⁴ and Phebee (Chadborene) Morrell, and grandson of Peter³ and Sarah (Peaslee) Morrell. Peter was the son of John² and Hannah (Dixon) Morrell, and the latter was the son of John¹ Morrell and Sarah Hodgdon. John¹ was born in 1640; and we have no further knowledge of him. We know that he was in Kittery (now Eliot) in 1668 and had raised a family there. Peaslee⁵ was born in North Berwick, where his grandfather, Peter Morrell, had a garrison house, and where his aunt, Sarah, then eight years old, was killed by the Indians in 1754. Peaslee⁵ Morrell and his father came to Hallowell (in the part now Augusta), previous to 1794. He soon after removed to Dearborn, and when, in 1818, a post-office was established there he was made postmaster, and so remained till that portion of the town was annexed to Belgrade. That post-office is now North Belgrade, and is the oldest one in the town. Peaslee⁵ Morrill married Nancy Macomber, by whom he had fourteen children. He died

in North Belgrade 18th Aug. 1852; and his wife died there 25th Dec. 1859. His brother, Peter^s Morrill, was one of the earliest settlers of Sebec, and has left a large progeny. Col. Walter S. Morrill, of Pittsfield, is a grandson of Peter^s of Sebec. Peaslee^s Morrill was well-known and respected in the town of his adoption, and a worthy progenitor of his well-known sons, Anson P. (born 10th June, 1803, died 4th July, 1887) and Lot M. (born 3d May, 1813, died 10th January, 1883) Morrill, both of whom were Governors of Maine,—the former in 1855-'56, and the latter in 1858-'61. All of the ancestors of Peaslee Morrill spelled their names Morrell, but all of his descendants have spelled it Morrill.

WILLIAM H. PAGE, Hallowell, son of Dr. Benj. Page (and a brother of Rufus K. Page and Dr. Benj. Page, jr.) was a merchant in the firm of Page and Bennet, No. 1, Kennebec Row, and retired from business about 1820. A member of the General Court of Massachusetts; major of militia. Capt. Craven of the United States Army, married his daughter. The house in which he lived is now (1894) standing at the corner of Union and Second Streets,—known as the Niles house. Representative in the legislature, 1823, '24, '25 and '27.

JAMES PARKER, Joy (Troy), was a member of the house of representatives in 1823. Justice of the peace.

WILLIAM PULLEN, Harlem (China), was a representative to the General Court in 1818.

MATTHEW RANDALL, Freedom. A member of the General Court in 1818 and of the Maine house of representatives in 1822.

SAMUEL REDINGTON, Vassalborough, came to the District of Maine soon after the close of the war of the revolution, with his brother Asa, and settled in Vassalborough. Asa (a soldier in the revolution) removed to Waterville in 1792 and died there in 1843. Samuel was treasurer of Vassalborough in 1798, 1803, 1815 and 1821; selectman three years from 1798; member of General Court in 1806, '09, '10, '12, '13, '14, '15, '18, '19; member of Legislature 1820, '21, '28. County Commissioner in 1822. Appointed by Gov. Parris in 1825 a member of "the standing committee to view and lay out roads" (his associates were Chas. Morse of Wilton and Isaac Snow of Monmouth). His wife Hannah died Jan. 1838, and in 1839 he married Mrs. Hannah Nichols, formerly of Bristol. He was a gentleman much respected. One of his sons, Alfred Redington (Adjutant General in 1842) was the first Mayor of Augusta (1850-'51), and afterwards removed to Sacramento, Cal., where he died. Another son, William, married Miss Cooper of Pittsion. Samuel Redington was appointed a justice of the peace and quorum by Gov. King, and held the commission many years.

LUTHER ROBBINS, Greene, was a member of the General Court four years — 1806, '07, '10 and '19, was member of the Maine house of representatives in 1820 and '21.

MOSES SLEEPER, Vassalborough, was a pioneer farmer in his town. In 1788 he was taxed for 100 acres of land and 10 acres of improved land, 20 bushels of corn and grain, 10 tons of hay, 2 oxen, 3 cows, 1 swine. He was taxed in 1821 for a much larger estate. (Some of the old valuation books of the town have been preserved by, and are [1894] in the custody of, Mr. W. A. Austin of Vassalboro.) Mr. Sleeper was one of the school committee in 1826. From records in the probate office it appears that he died in 1830.

CHARLES SMITH, Fayette. Physician. Served his town as selectman. Was representative to the Legislature in 1823. Justice of the peace in 1827.

ABIJAH SMITH, Waterville. The first town clerk, in 1802 and again in 1812 and 1834. Town treasurer in 1822. Was captain of the first fire company in Waterville, about 1810. In 1808 he had four children of school age, and in 1809 was assessed for a tax of \$7.39. Died in 1842.

DANIEL STEVENS, China. A selectman seven years, beginning in 1818.

WILLIAM SWAN, Winslow, born in Boston, 1746. Trader at Groton, Mass., in 1774; in 1777 marched to Saratoga to assist in the capture of Burgoyne. Removed to Otisfield, Maine, in 1794, and to Gardiner in 1796. An active magistrate for many years. Became warden of Christ Church, Gardiner; town assessor. Removed to Winslow in 1806. In 1776 married Mercy Porter at Groton. He died at Winslow in 1835. "A man of great integrity and uniformity of character."

ELIAS TAYLOR, Belgrade, born Feb. 21, 1762, son of Elias Taylor who moved from New Bedford to Maine and received from the Plymouth proprietors, April 28, 1762, a grant of land—lot No. 21, west side of the Kennebec river, in what is now ward four, Augusta. The son Elias was the first white child born within the present limits of Augusta—then called the Fort Western Settlement. Elias moved with his father to Readfield in 1771. He became a Calvinist Baptist minister, and settled in Belgrade, where he preached for many years in the first house of worship built (1826-7) in that town—at what is now Rockwood's Corner. He married, June 19, 1782, Betsey Knowlton,—6 children (Joel.

Patty, Sarah, Betsey, Elias, John). Rev. Elias was an uncle of Samuel Taylor of Fairfield (born Sept. 8, 1797, d. 18) and Joseph Taylor of Belgrade (b. Nov. 25, 1804, d. June 28, 1882), both prominent citizens and revered members of the Society of Friends. Rev. Elias Taylor's wife died May 3, 1844, aged 79 years.

ROBERT C. VOSE, Secretary of the Constitutional Convention, was born in Milton, Mass., in 1783. Removed to Augusta, (then Hallowell,) Maine, and became a trader (1805,) with James Bridge and Reuel Williams as silent partners. Soon retired from mercantile business to engage in clerical occupation. Became Clerk of Courts for Kennebec County in 1826; postmaster at Augusta from 1814 till 1830. Was the first representative from Augusta, after the Separation. He married Dec. 15, 1819, Caroline, daughter of Joshua Gage. He died Jan. 6, 1836.

JOEL WELLINGTON, Fairfax (now Albion). Selectman eleven years from 1812. Town clerk, 1817. Captain of company drafted from Albion in 1812. First postmaster from March 16, 1825, to Feb. 24, 1831. Representative to the legislature, 1820, '21, '28, '31, '33. State senator, 1824. Member of Gov Parris' council, 1826. Member of Gov. Lincoln's council, 1827. Major-general of 2nd division, Maine militia, 1827. Postmaster in 1821.

NATHANIEL WHITTIER, Vienna, born in Readfield, Feb. 26, 1783, one of the early settlers of Vienna, having removed there soon after his father (Nathaniel, born in Salisbury, Mass., Feb. 23, 1743, married in 1766, Elizabeth, daughter of Jedediah and Hannah Prescott of Brentwood, N. H., died at Readfield April 3, 1795), jointly with Jedediah Prescott, junior, bought the township of Vienna (about 1792.) A part of the land which fell to his share is still in possession of the family. Nathaniel married at Mt Vernon, Oct 29, 1804, Nancy, daughter of James Merrill (she was born in Raymond, N. H., Jan. 22, 1785, and died at Vienna, Jan. 2, 1843), and married, 2nd, Mrs. Sarah (Bodwell) Jayne of Augusta. Mr. Whittier was prominent in shaping the affairs of his town, and in the course of his life he held nearly all the public offices within the gift of his townsmen. Was selectman fifteen years beginning with 1805, town clerk from 1821 to 1829, and town treasurer from 1825 to 1834. He died Feb. 27, 1869, Twelve children. The first class of Methodism in Vienna was formed in 1794 at his father's house, under James Wager by Nathaniel Whittier, senior, together with James Cofren, Elihu Johnson, Frederick Whittier and Daniel Morrell, and their wives.

ELI YOUNG, Pittston, was a selectman twenty-two years, between 1812 and 1838, town treasurer eight years between 1814 and 1821. Moderator six years between 1814 and 1835. Town clerk nine years, between 1816 and 1824.

HANCOCK COUNTY.

WILLIAM ABBOT, Castine, born at Wilton, N. H., Nov. 15, 1773; descendant of George Abbot, who emigrated from England in 1644, to Andover; graduated from Harvard College, 1797; admitted to bar in 1800; removed to Castine in 1801; married in 1802, Rebecca Atherton; in 1803 appointed register of probate, which office he held for eighteen years. In 1816, was an elector for president; first representative from Castine to Maine Legislature, and also representative in 1823, 1826, 1827. He removed to Bangor in 1829; drafted city charter of Bangor (1834); Mayor of Bangor, 1848 and 1850. Died August, 1850.

DAVID ALDEN, Northport, was a justice of the peace and quorum in 1821, and for many years later.

ABEL W. ATHERTON, Prospect, was a member of the first two houses of representatives — in 1820-'21. A Colonel in the militia. An able, prominent and honored citizen.

BENJAMIN BEVERAGE, Vinalhaven, was the son of Capt. Thomas Beverage who was born in Topsham, 1750, and moved to Vinalhaven when a young man. Benjamin was selectman thirteen years from 1806 to 1822, and a member of the house of representatives in 1823.

JOSEPH BLETHEN, Thorndike, was commissioned a justice of the peace in 1821, and again in 1827.

SAMUEL DAVIS, Gouldsborough. (No information concerning Mr. Davis has been obtained by the compiler and publisher of these sketches.)

JOSIAH FARROW, of Islesborough, was born in Bristol, Maine, Jan. 2, 1786, and when but a few years of age moved with his parents to Islesborough. When but a young lad he commenced going to sea, and continued to follow it for more than twenty years. His most thrilling experiences in that career were in being once shipwrecked, and in being taken prisoner in the war of 1812. The shipwreck occurred in the early part of his sea-going. He was on a vessel bound to Boston in the month of December, when they encountered a severe gale and were blown off the coast and dismasted. The crew suffered much from exposure

and want of food and water. After a number of days they were rescued by a vessel on her passage to Berbice, S. A., to which port they were taken. He finally returned home on a vessel bound to Boston. His prison experience occurred when he was about twenty-eight years old. At that time he commanded the vessel and was part owner. His business was between Boston and Alexandria, Va. At the time he was taken he was on his passage from Alexandria to Boston, loaded with flour (which was of more than ordinary value, owing to the embargo) and having succeeded, under cover of dense fog, in getting past the blockading squadron at the mouth of the Potomoc river, all went well until they reached Cape Cod, when they found they were pursued. They were soon captured, the cargo seized and their vessel burned. They were taken to Halifax and kept in prison about six weeks, when they were sent home on parole. Soon after this he married Mary Boardman, daughter of one of the early settlers of the island. He purchased a farm, the one on which he always lived while in Islesborough. He finally retired from the sea, and in 1833 moved to Belfast. He there became interested in shipping, and was one of the owners of the *Patent*, said to be the first steamboat in Maine. He died Aug. 11, 1861; his wife died Oct. 31, 1862, aged 77 years. Was a member of the legislature in 1823 and '26.

ASA GREEN, Deer Isle, died in 1838, over 80 years of age. He was for many years constable and a deputy sheriff. He married Martha, daughter of Nathaniel Scott. Their children were: John a master mariner (who was with his brother Asa, Frederick Spofford, Abner Babbidge and Amos Angell wrecked off Green Islands in Feb. 1818, in schooner *Shakespeare*, returning from Boston, and all perished). Another son was Captain Wm. S. Green, who was in 1842, 1859 and 1863, a representative to the Maine Legislature, and died in 1870. Another son was Thomas Green.

JOSHUA HALL, Frankfort, member of the General Court four years, — in 1814, '16, '18 and '19. Member of the house of representatives of the first two legislatures of Maine — 1820, 1821.

IGNATIUS HASKELL, Deer Isle, carried on trade and building vessels. He was a man who had a large share of business capacity and for a long time was the foremost man in his community, and had great influence, owning large property and taking great interest in the affairs of town and church. He built a meeting house about 1800, selling the pews to those who were disposed to purchase. He was one of the earliest justices of peace, and often one of the selectmen. He died in 1842, at the age of 91 years. His wife was Mary Stickney of Newburyport. Four sons and five daughters. He married, 2nd, Mrs. Gross,

whose maiden name was Martha Pritchard, born in Boston 1773. At the time of Mr. Haskell's death he is said to have left the largest property of any one in town, a large portion of which was in real estate.

PETER HAYNES, Trenton, was one of the justices of the peace in 1823.

GEORGE HENMAN, Sullivan. Justice of the peace in 1827, and later.

LEONARD JARVIS, Surry, was appointed a justice of the peace in 1821.

BOARDMAN JOHNSON, Jackson, was a justice of the peace in 1827.

ALFRED JOHNSON, Junior, Belfast, born in Newburyport, Mass., Aug. 13, 1789, was the eldest son of Rev. Alfred Johnson, the second minister of Belfast and went to Belfast to reside in 1805, while a Sophomore in Bowdoin College, where he graduated three years after. His professional studies were pursued with William Crosby. On being admitted to the bar in 1811, he opened an office in the building, at Nesmith's Corner, which his brother Ralph C. occupied as a store. During the war of 1812, he commanded the artillery company, and for several years served as judge advocate in the militia. Chosen to the legislature in 1819 and 1820. The latter position he resigned to accept the office of Judge of Probate for Hancock county. When Waldo county was established (Feb. 7, 1827), he was appointed to the same position which he filled until vacated by constitutional limitation in 1840. During a judicial service of twenty years, no appeal was taken from any of his decisions. He was commissioner under the bankrupt law of 1841. From 1838 until his decease, he was one of the trustees of Bowdoin College. Judge Johnson died March 22, 1852.

SAMUEL LITTLE, Bucksport, was a member of the Maine house of representatives in 1821 and 1826. Counsellor at law.

ANSEL LOTHROP, Searsmont, was a member of the house of representatives in 1822 and '24.

HORATIO MASON, Orland. (No facts relating to Mr. Mason have been obtained by the compiler.)

ALEXANDER MILLIKEN, Frankfort, was a member of the General Court in 1812.

JOSEPH NEALLY, Monroe, was a member of the house of representatives in 1824.

ELEAZAR NICKERSON, Swanville. (The available records at the State capitol have been examined in vain for information concerning Mr. Nickerson.)

SAMUEL M. POND, Bucksport, was a representative to the General Court in 1818. He was a member of the Maine house of representatives six years, beginning with 1822 and ending with 1830. He was State senator in 1826. A counsellor at law.

MARK SHEPARD, Ellsworth. Shipbuilder. Removed from Biddeford and settled on "west side." "Shepard's Wharf," Ellsworth, named for him. Member of the house of representatives in 1822, '23 and '24. Was a ready, fluent and forcible speaker in town and other public meetings.

NICHOLAS THOMAS, Junior, Eden, was a member of the house of representatives in 1824.

JAMES WEED, Knox. (Mr. Weed's name has not been found in the records at the State Capitol except as a member of the Constitutional Convention.)

JAMES WEYMOUTH, Belmont, was a member of the house of representatives in 1822 and in 1826.

SAMUEL WHITNEY, Brooks, was a member of the first four legislatures of Maine — from 1820 to 1823 inclusive. A justice of the peace, 1821. A state senator in 1825, a member of Gov. Parris' council in 1826, and of Gov. Lincoln's Council in 1827.

SAMUEL A. WHITNEY, Lincolnville, is recorded as a justice of the peace in 1827.

ANDREW WITHAM, Bluehill. Moved from Bradford, Mass. Was born Nov. 11, 1768, and died May, 1851. Married (first) Mehitable Kimball (born Jan. 24, 1770, died Aug. 8, 1800) May 9, 1790. Married (second) Molly Parker (born May 30, 1770, died July 13, 1830) Oct. 20, 1801. Married (third) Ann Chadwick (she died July 3, 1836) April 12, 1831. He was a merchant and shipbuilder and an influential citizen. State senator in 1820, '21, '23 and '29. Representative to the Legislature in 1831. Six children.

WASHINGTON COUNTY.

JOSEPH ADAMS, Cherryfield, was born in Lincoln, Mass., and about the year 1807, while in his minority, he removed to Maine and began trade at Wiscasset, but shortly afterwards went to Cherryfield. His name appears in the list of plantation officers in 1809. From that time for more than half a century he was identified with the history of Cherryfield, its people, and its interests. In the course of years he held nearly every town office, was elected several times to the General Court, and eight times to the Maine house of representatives beginning in 1820 and ending in 1831. Several times he rode on horseback from Narraguagus to Boston, and back again after the close of the session. Married, first, Elizabeth, daughter of Thomas and Hannah (Campbell) Archibald. Married, second, Nancy, daughter of Gen. James Campbell. He died about the year 1872, aged 90 years.

JONATHAN BARTLETT, Eastport, born at Plymouth, Mass., Nov. 22, 1787; son of Jonathan and Lydia (Ellis) Bartlett; moved to Eastport in 1808; representative to General Court, and in the Maine Legislature in 1823; an extensive owner of shipping, and the pioneer of steamboat navigation on the eastern coast and about Passamaquoddy bay; a manufacturer of salt; removed to Ohio, where he also engaged in the manufacture of salt. He died at Cincinnati, Nov. 7, 1849.

JOHN BURGIN, Eastport, son of Edward Hall Burgin, born at Newmarket, N. H., Oct. 4, 1765; moved to Moose Island (afterwards Eastport) before 1798; of committee with Samuel Tuttle and John Allen to draw up a petition to General Court for incorporation of Eastport, March 13, 1797 (town was incorporated Feb. 24, 1798). Selectman, 1798, 1799, 1800, 1801, 1803-'06, 1809; moderator, 1805-'06, 1808-'13, 1815-'17; town treasurer 1811. First Magistrate on the island. In 1811 appointed judge of the court of common pleas; postmaster from 1813 until 1829; representative in the general court one year, and three years in the legislature of Maine. Member of Governor Hutton's executive council in 1830. Died at Eastport Feb. 20, 1846.

JAMES CAMPBELL, Harrington, (son of Gen. Alexander and Elizabeth Campbell of Steuben) was born in Newcastle, Feb. 9, 1761. An early settler in Harrington. One of the petitioners in 1797 for a town charter. Was conspicuous in town affairs, and was given many positions of trust and responsibility. A member of the General Court several times and subsequently of the Maine Legislature. Was judge of the court of common pleas and of the sessions for the Eastern District. He also held a brigadier general's commission in the militia, having rose from the rank of captain to that grade. Judge Campbell died July 7, 1826, and his wife Susannah died Sept. 24, 1833. There were ten children, making a numerous family,— which sustains an honorable name in eastern Maine.

JOHN DICKINSON, Machias, was the son of John and Lydia Dickinson of Amherst, Mass., born Feb. 25, 1782. Graduated at Williams College in 1800. Studied law and settled in Machias about 1806, being the third lawyer in Washington county. He was a man of integrity, ability and influence. A representative to the General Court in 1808 and 1819. For many years Judge of Probate for Washington County. He moved to Amherst, Mass., in 1837, and died Dec. 3, 1863.

PETER GOLDING, Perry, member of the house of representatives in 1824. Died in 1839, aged 66 years.

ALEXANDER NICKELS, Steuben, was one of the early settlers of that town, receiving a deed of a lot of land there April 2, 1794. Associate justice of the courts of sessions, 1823 and later.

LEMUEL TRESCOTT, Lubec, was the son of John, Junior, and Sarah (Davenport) Trescott, of Dorchester, Mass., born there March 23, 1750. When the revolutionary war came on he enlisted and was a captain in Col. Whitcomb's regiment at the siege of Boston, and later major in Col. Henry Jackson's regiment, of which David Cobb, afterwards of Gouldsborough, was Lieut. Col. Maj. Trescott at one time commanded a battalion under the Marquis LaFayette. At the close of the war he removed to eastern Maine and was at Moose Island in 1784, where he was found "trading in fish and lumber" with Col. John Crane, by Rufus Putnam and Park Holland. Was extensively engaged in lumbering. In 1798 he was chosen the first town treasurer of Eastport, and he held many other town offices. Was collector of Machias in 1807, and probably moved there. In 1808 he returned to Eastport and superintended the erection of Fort Sullivan. In 1811 he was appointed Collector of Passamaquoddy. In 1812 he was appointed colonel of the 9th U. S. Infantry, which he declined. After the close of the war of 1812, he removed to Lubec. In 1824 he was presidential elector. He died Aug. 1826. He contributed liberally of his means for public objects.

WILLIAM VANCE. Calais, was born in South Carolina and educated as a lawyer. About the first of the present century he came to Maine and became a resident of Baring, and a large land proprietor,—both in Maine and New Brunswick. He erected a saw-mill in Baring in 1805. He was a man of strong personality and force of character. He was representative in the legislature from Calais four times (1823, '25, '27, '28). He removed to Readfield during the later years of his life, and represented that town in the legislature in 1837. He died in Readfield in 1841, aged 82 years. In his will (dated May 14, 1840) he devised "my new brick school-house and one-quarter of an acre of land, to School No. 5, Readfield, to be used for the education of little children." His son, James P. Vance, a lawyer, was representative to the legislature from Calais in 1837, but afterwards left the law for the ministry, and went west. The youngest daughter of Mr. William Vance became the wife of Hon. Lot M. Morrill (Governor, 1838; U. S. Senator, 1861-'63, 1863-'69, 1869-'71, 1871-'76; appointed Secretary of the Treasury by President Grant in 1876). William Vance was appointed a justice of the peace and quorum by Gov. King. The town of Vanceborough (incorporated 1874) was named in honor of Mr. Vance.

THOMAS VOSE, Robbinston, was a member of the house of representatives in 1820 and 1821.

EPHRAIM WHITNEY, Jonesborough, was a son of Joel Whitney who moved from Portland to Jonesborough about 1767. Ephraim was born Nov. 7, 1770. Member of the General Court, 1810. A captain of militia. Representative to the legislature, 1823.

OXFORD COUNTY.

CALVIN BISBEE, Sumner, son of Charles and Beulah (Howard) Bisbee, born in Sumner, Oct. 14, 1771; married April 22, 1800, Bethiah Glover of Buckfield. He was much respected by his fellow citizens, and often held town office, and served in the legislature of the new State of Maine. His father was the son of Moses Bisbee of East Bridgewater, Mass., who was the son of John (married, at Marshfield, Joanna Brooks, Sept. 13, 1687), who was the son of Elisha of Scituate (in 1644), who was the son of Thomas Bisbee, who sailed from Sandwich, Eng., and landed at Scituate in 1634,—and became the common ancestor of the New England family of Bisbee. Calvin Bisbee died in 1858.

BENJAMIN BRADFORD, Livermore, moved to that town in 1809, and resided there till his death in May, 1864, at the age of 80 years. He was the son of Chandler Bradford of Turner. Hon. Israel Washburn in his *Notes on Livermore*, 1874, says that, as a physician Dr. Bradford had a large practice; as a man he was genial, wise, and of rare humor; as a citizen, useful and honored. He was for five years (1827, '28, '29, '36 and '47) a member of the Maine Legislature, and in 1841 was a member of the Executive Council. He was much esteemed by Governors Lincoln and Kent, with whom he was in intimate relations, for his good sense and admirable colloquial powers. He was treasurer of the town for fifty-one consecutive years. He married Martha Bisbee (died in 1863), by whom he had a family of thirteen children.

PHILIP BRADFORD, Turner, born at Turner Center, (formerly known as Bradford's village) July 15, 1789. After acquiring what education he could in the town schools, he studied at Hebron Academy. He attended medical lectures at Dartmouth College, and in due time received a diploma. He located in his native town, and became a successful practitioner. He enjoyed the confidence of the public both as a man and a physician. He died of pneumonia, after a short sickness, June 24, 1863. He was a lineal descendant of William Bradford of the Plymouth Colony (1620).

WALTER P. CARPENTER, Mexico. Member of the house of representatives in 1820 and in 1821.

BENJAMIN CHANDLER, Paris, son of Perez and Rhoda (Wadsworth) Chandler of Duxbury, Mass., born in 1782. Commenced practice of medicine in New Gloucester, then moved to Hebron and about 1811, finally settled in Paris. Representative to General Court, 1816, 1818-'19; assistant-surgeon in Col. Ryerson's regiment in the war of 1812; appointed judge of probate, entering upon the duties of his office June 6, 1820,—the successor of Judah Dana, and continued in that office until 1827. His sister Asenath was the mother of Dr. Ezekial Holmes, who studied medicine with Dr. Chandler. Married 1st, Wealthy, daughter of Ichabod Benson, and 2nd to Miss Sarah Barker of Portland. He is represented as a member of the church, a moral, upright man, amiable in his disposition, unobtrusive in his manners, respected and beloved as a physician, and honored as an able, intelligent, and useful citizen by all his contemporaries.

ELIPHAZ CHAPMAN, Gilead, was a member of the house of representatives in 1823. Had been a member of the general court in 1804.

THOMAS CHASE, Junior, Livermore (born Feb. 22, 1782, and died May, 1844), was the son of Thomas Chase who was born in Tisbury (Martha's Vineyard) in 1755, and moved to Livermore in 1790 where he died in 1844. Thomas, Junior was a Colonel of militia and held many town offices and other places of trust. Member of the Legislature from 1820 to 1826 inclusive. He was grandfather of Mrs. Elizabeth Akers Allen (Florence Percy) the sweet Maine poetess. Thomas Chase, Senior, served in the war of the revolution, and was one of Paul Jones' crew in the celebrated action between the *Bonne Homme Richard* and the *Serapis*.

ASA CUMMINGS, Albany. One of the early settlers of the plantation of Oxford, and organizers of the town (incorporated, 1803). A prominent and honored citizen. Representative to the General Court in 1803. Appointed justice of the peace by Gov. King in 1821, and recommissioned several times. Promoter and first president (in 1831) of the Albany Temperance Reform Society (ninety-one members in 1834), which was auxiliary to the Maine Temperance Society — organized in 1833.

JUDAH DANA, Fryeburg, born in Pomfret, Vermont, April 25, 1772,—a grandson of Gen. Israel Putnam; graduated at Dartmouth in 1793; removed to Fryeburg 1795, and opened the first law office in Oxford county; was executive councillor; bank commissioner; Judge of the Court of Common Pleas, and for a brief period a senator in Congress—1836-'37. Married Elizabeth, daughter of Prof. Sylvanus Ripley, of Dartmouth College, and the grand-daughter of Eleazer Wheelock, the founder and first president of that institution. His son, John W., was governor of Maine, 1847, '48, '49; his daughter Maria married the late Judge Howard; Abigail Ripley, mother of the late James R. and Kate Putnam Osgood, married Edward L. Osgood.

ISAAC FLINT, Greenwood, was justice of the peace in 1823 and years following — later than 1827.

ALEXANDER GREENWOOD, Hebron, was a member of the General Court in 1813.

JOHN GROVER, Bethel (son of John, a soldier of the revolution), born November 22, 1783; married July 4, 1819, Fanny Lary of Gilead; four sons and two daughters. Was hospital steward at Portland in the war of 1812; began practice of medicine at Bethel in 1816; was for thirty-five years surgeon of the militia. Selectman in 1820 and 1843. Member of first Maine Legislature, 1820-'21; state senator in 1827, 1828, 1829. For many years president

of board of trustees of Gould Academy. Died July 19, 1866. One of his sons—Lafayette—was governor of Oregon from 1870 to 1877, and afterwards United States senator; another son—Gen. Cuvier Grover—was a distinguished officer of the U. S. army, and died in 1885.

ENOCH HALL, Buckfield, was a member of the General Court in 1793, and a member of the house of representatives in 1820 and 1821.

JOSIAH HEALD, 2nd, Lovell, was commissioned a justice of the peace by Gov. King in 1821, and again by Gov. Lincoln in 1827.

CORNELIUS HOLLAND, Jay, was a member of the house of representatives in 1820 and in 1821, and State senator in 1826. Associate justice of the courts of sessions, 1821.

JAMER HOOPER, Paris, son of William and Elizabeth (Emery) Hooper, born in Berwick in 1769. First visited Paris Nov. 6, 1799; elected minister of the town April 6, 1795; ordained pastor of 1st Baptist Church in June, 1795; continued as pastor until 1838. Chosen to Brunswick convention of 1816. Served several times as member of the legislature. President of Oxford Bible Society in 1825; wrote a sketch of town of Paris in 1830; in 1834, published a pamphlet sketch of his own life and an exposition of his theological views. Married to Sally Merrill of New Gloucester; she died April 19, 1802, aged 24 years, and he married 2nd widow of Reuben Hubbard, who was the daughter of Benjamin Stowell of Worcester, Mass. Dr. Lapham in the History of Paris (1884) says: "He was not only pastor of the church and minister of the town, but he was an influential and much respected citizen in all that term implies." He died Dec. 24, 1842.

CYRUS INGALLS, Denmark, member of the house of representatives in 1822 and '24.

SOLOMON LELAND, Dixfield, was appointed a justice of the peace by Gov. King (1821), and again by Gov. Lincoln (1827).

SAMUEL NEVENS, Sweden. Member of the house of representatives in 1830 and 1837.

CORNELIUS PERKINS, Woodstock, son of Gideon and Desire (Dunham) Perkins, and grandson of Joshua,—all of Carver, Mass. Born in Carver Dec. 25, 1775, and was among the early set-

tlers of Paris, Maine. In 1803 moved to Woodstock. He was a respected and useful citizen, and held town offices for more than thirty years. After the death of his wife he returned to Paris, and died there.

LAFAYETTE PERKINS, Weld, born in Castle William, Boston harbor (of which his father was then commandant), March 26, 1786, educated in Boston and studied medicine with Dr. John Warren, receiving the degree from Harvard Medical School. In 1813 he received the appointment of surgeon on board the U. S. brig-of-war *Argus*. This brig made a daring cruise about the coast of England, capturing a number of British ships, and sailing into the port of Nantes, France, remained some time under the protection of the French flag. On the homeward voyage the brig captured two British merchantmen which were sold and the proceeds divided — the surgeon receiving his share. Dr. Perkins first began the practice of his profession in Weld, in March, 1815, and remained there until the spring of 1836, when he removed to Farmington and continued his vocation until the close of his life. He loved and faithfully studied his profession, was well read in its theory, and his good judgement enabled him to adopt that practice best calculated to benefit his patients, while his dignified, gentle and courteous deportment was a part of the man, and will long be remembered by his townsmen and patrons. Dr. Perkins married, Dec. 30, 1817, Dorcas, daughter of Benj. and Phebe (Abbot) Abbot, and grand-daughter of Jacob and Lydia (Stevens) Abbot. She was born in Smithfield, N. H., Feb. 25, 1797. Dr. Perkins died May 9, 1874. Six children.

SYLVANUS POOR, East Andover, was the first postmaster in his town, was a justice of the peace in 1821, and for many years following.

LUKE REILY, Newry. A justice of the peace in 1821, and reappointed in 1827. One of the first settlers in 1781, and named the town Newry for the town in Ireland whence he came. A famous schoolmaster in his day.

JOSIAH SHAW, Waterford, born in 1773. Married (first) Sarah Poor (born 1777) of Brownfield. Married (second) Betsy Haskell (born 1789) of Harvard, Mass. Moved to Waterford from Standish in 1795. Was originally a farmer, but became a Methodist clergyman, and was much honored as a preacher. Member of the house of representatives in 1820. Rev. John Shaw (born at Waterford, Feb. 12, 1800, died in Buxton Aug. 20, 1825), was his son,— whose "praise as a preacher, was in all the circuits where he labored."

MARSHAL SPRING, Hiram, was a member of the General Court in 1819. Justice of the peace in 1823.

JAMES STEELE, Brownfield, was a member of the General Court in 1813 and 1814, and State senator in 1824, '30, '31 and '32.

JOSEPH TOBIN, Hartford, was a member of the Maine house of representatives in 1840.

WILLIAM TOWLE, Porter, born in Epsom, July 18, 1774. Married Mercy Garland. Died April 25, 1841. One of the early settlers of Porter. Selectman seven years, from 1810 to 1816. Representative to the Legislature, 1823, 1826.

JOHN TURNER, of Turner, was a son of Rev. Charles Turner who was a native of Scituate, Mass. (born 1732, grad. Harv. Coll. 1752, died in Turner in 1818) and for whom the town of Turner was named. The son John in company with Jesse Bradford and Henry Jones built a saw-mill and grist-mill at Turner Center in 1795. A trustee of the ministerial and grammar school funds in Turner from 1803 to 1832; town treasurer from 1803 to 1815. Member of General Court in 1806 and 1808. Member of house of representatives, 1820 and 1821. Married Temperance F. Cushing. Presidential elector in 1804 (with John Woodman of Buxton, Thomas Fillebrown of Hallowell, John Farley of Newcastle. They voted for Thomas Jefferson). Associate justice courts of sessions, 1821.

PETER C. VIRGIN, Rumford, youngest son of Ebenezer and Dorcas (Lovejoy) Virgin of Concord, N. H., and grandson of Ebenezer Virgin, the emigrant and early settler at Concord. Born in Concord, June 23, 1783; attended school, and fitted for college at Phillips Exeter Academy; was for a year or more a student at Harvard College. Studied law in the office of Esquire Varnum of Haverhill, Mass., and also with Judah Dana. Representative to the legislatures of Massachusetts and Maine; town clerk and agent (1819), town treasurer (1817-'19), selectman (1814-'15); county attorney (1838, 1841), trial justice (1860). Postmaster at Rumford Corner. Married Sally daughter of Francis Keyes. Died April 7, 1871. "A gentleman of the old school, courteous and kind to all." William Wirt Virgin,—born Sept. 18, 1823, died Jan. 23, 1893,—(Justice of the Supreme Judicial Court from Dec. 26, 1872, until the time of his death) was his son.

AARON WILKINS, Norway, moved from Middletown, Mass., with his wife Maria. Selectman, 1805-'07, 1810, 1815-'18; treasurer, 1810; representative to legislature 1821-'23. A trader, 1810-'12 at Swift's Corner. He was a justice of the peace and much employed in writing deeds and other legal documents.

SOMERSET COUNTY.

WILLIAM ALLEN, Junior, Norridgewock, son of William and Love (Coffin) Allen, was born in Chilmark, Mass., April 16, 1780; came to Maine in 1792 with his parents, who settled on land in the wilderness which in the year 1803 became a part of the town of Industry; studied at Hallowell Academy and was afterward a teacher there; in 1807 married to Hannah Titcomb of Farmington; in 1809 was appointed Judge of Probate for Somerset County, and removed to Norridgewock, where he died July 1, 1873. Was representative in the legislature in 1824. Portions of the journal which he kept have been incorporated into the *History of Industry*, by Dr. Wm. C. Hatch (1893). He compiled a history of the town of Norridgewock, published in 1849. Rev. Stephen Allen, D. D., who published the *History of Methodism in Maine* (1886), and Rev. Charles F. Allen, D. D., were his sons; John S. Abbot, attorney general of Maine in 1855, and afterward of the Suffolk Bar, was his son-in-law.

NAHUM BALDWIN, Mercer, was a member of Maine house of representatives in 1829. Justice of the peace and quorum, 1821.

GEORGE BIXBY, Cornville, member of the house of representatives in 1820, 1821 and 1827. Justice of the peace in 1821, and for many years.

JONATHAN BROWN, Freeman, was a member of the house of representatives in 1820 and '21.

WILLIAM BUTTERFIELD, Northhill (now Brighton). A justice of the peace in 1827 and later.

ELEAZAR COBURN (Bloomfield), came while a child from Dracut, Mass., in 1792, with his father, who was among the early settlers of Canaan from which Bloomfield and Skowhegan (1822) were formed; he engaged in the business of land surveying; he married Mary Weston (whose grandfather, Joseph Weston, served as a guide in Arnold's march to Quebec in 1775); was representative to the legislature in 1820; he formed in 1830, a partnership with his two sons Abner and Philander, under the name of E. Coburn & Sons, in the business of land surveying, land buying and timber cutting, and laid the foundation of the great fortune of the later firm of A. & P. Coburn; he died January 9, 1845. Eleazar Coburn first represented his section in the general court in 1811, and several times subsequently. He served in the Maine legislature for the last time in 1830. His wife's grandfather died prematurely from exposure in piloting the Arnold expedition. His son Abner was governor of the State in 1863-'64.

ELISHA COOLIDGE, Solon, was a member of the house of representatives in 1823.

JAMES COLLINS, Anson, was a native of New Hampshire. Captain in the war of 1812. Moved to Maine and settled at Anson where he built mills. A farmer and prominent citizen. Member of the house of representatives in 1820 and 1821 and of Gov. Parris' council in 1822. Appointed in 1821 to qualify officers and held that commission for many years. He died April, 1847, aged 70 years.

ISAIAH DORE, Athens, was commissioned a justice of the peace by Gov. King in 1821.

JOSEPH DYER, Phillips, was a minister of the Free Will Baptist denomination. Justice of the peace, 1827.

WILLIAM ELDER, Corinna, was appointed a justice of the peace in the new State by Gov. King in 1821.

ROBERT EVANS, Harmony, was commissioned by Gov. King a justice of peace in 1821, and by Gov. Lincoln in 1827, as justice of the peace and quorum.

BENJ. FRENCH, St. Albans. Physician. Justice of the peace, 1827. Died in Palmyra in 1839, aged 65 years.

JACOB HALL, Ripley, was a justice of the peace in 1827.

EZEKIEL HINKLEY, Industry, son of John Hinkley (captain in revolutionary army and killed at Castine) born June 14, 1778; married April 18, 1793, Eunice, daughter of Jeremiah Spinney of Georgetown. He was a sea captain before moving to Industry, and a selectman in Georgetown. Exchanged a farm in Georgetown for one in Industry. A member of the Free Will Baptist Church, and a man much esteemed by his neighbors and townsmen. He died at Industry, in March, 1853. His widow died in Livermore, April 29, 1864, aged nearly 96 years. Mr. Hinkley was selectman four years, beginning with 1822, and representative to the legislature in 1828. He aided in erecting the Union meeting house in Industry in 1823,—sometimes called the Red Meeting House (torn down in 1872-'3 and converted into a cheese factory).

STEVENS KENDALL, Warsaw (Pittsfield). Justice of the peace in 1823, and for many years.

WILLIAM KENDALL, Fairfield. Came to the District of Maine soon after the close of the war of the revolution, and acquired land and settled and built mills on the Kennebec river at the place which was afterwards for many years called Kendall's Mills (now Fairfield Village). He acquired ownership of the whole water power at that place. He was State senator in 1820 and 1821. He was postmaster in 1821 and subsequently. A justice of the peace and quorum in 1827 and subsequently. He was sheriff of Somerset county. He was major-general of militia. He had several sons and daughters. One of the former was Capt. William Kendall, who in his generation was a well-known millwright and mechanic— noted for his inventive genius and mechanical skill. Capt. William's daughter Ora married Milton Philbrook of Fairfield, and their daughter Sarah married A. M. C. Heath of Gardiner (editor and publisher of the *Home Journal*) who was killed at the battle of Fredericksburg (Dec. 1862), and one of their sons is Hon. Herbert M. Heath, of Augusta (1894), and a daughter is Miss Dr. Gertrude E. Heath, a physician (homeopathic) of Gardiner, Maine.

JOSEPH KNAPP, Kingfield, was a member of the house of representatives in 1823.

SAMUEL LANCEY, Palmyra, was a justice of the peace in 1827.

JAMES MAYHEW, Strong. (No facts relating to Mr. Mayhew have been found by the compiler.)

ANDREW MCFADDEN, Embden, born in Georgetown, son of Thomas who moved to Embden about the year 1800. Developed one of the best farms in Somerset county — 100 acres of intervale land on the west side of the Kennebec. A man of more than ordinary intelligence and highly respected by his neighbors and townsmen. Was a member of the legislature, and held other positions of trust. He died about 1880. He had two sons — Elhamman and Ozias — both now (1894) deceased. Three daughters (Achsa married John Cragin of Embden, Angeline married David Whipple of Solon, and Mary who married and lives in Massachusetts.) Andrew McFadden was justice of the peace many years.

JOHN NEAL, Madison, was a member of the General Court in 1818. Justice of the peace in 1821 and for many years. Colonel of militia.

HENRY NORTON, New Portland, son of Samuel and Molly Davis Norton, was born in Edgartown, Mass., June 7, 1770. Married Jan. 29, 1795. Hannah, daughter of Robert and Mary (Henry) Gower, of Farmington. He probably came to the District of Maine about 1794. He purchased of his father Feb. 17, 1794, lot number 3 in the first range of lots in New Vineyard. He erected the first grist-mill in Industry. Mr. Norton carried the provisions for his workmen and a portion of the mill irons on his back a distance of nearly six miles, following a spotted line over the mountain. His father (son of Peter Norton of revolutionary fame) was one of the original purchasers of the township of New Vineyard. Henry moved to New Portland, where he was first town clerk and held various other town offices. He died May 7, 1844. His wife (born in Topsham, Feb. 27, 1775,) died May 5, 1864.

SAMUEL SPRAGUE, Avon. (The compiler and publisher of this series of sketches has not succeeded in finding facts relating to Mr. Sprague in any town, county or state history. He was one of the ten members of the constitutional convention whose names do not appear in the state registers or other accessible public records. The names of the nine other members are:— Nathan Bucknam of Falmouth, Mark Hatch of Putnam [now Washington], Amos Gordon of Garland, Isaac Farrar of Dexter, James Mayhew of Strong, Samuel Davis of Gouldsborough, Eleazar Nickerson of Swanville, Horatio Mason, Orland, and James Weed of Knox.)

WILLIAM TALCOTT, New Vineyard, was a justice of the peace in 1823, and also as late as 1827.

STEPHEN THAYER, Fairfield, was commissioned a justice of the peace by Gov. King in 1821, and by Governor Lincoln at a later date.

WENTWORTH TUTTLE, Canaan, was a representatives to the Legislature in 1824.

JAMES WAUGH, Starks, a native of Townsend, Massachusetts. Removed to Starks in 1774, and settled on a lot at the "great oxbow" on Sandy river, then called Little Norridgewock, which was considered within the precincts of Norridgewock until the town was incorporated. Having built a log house and made preparations for raising a crop of corn, he was married to Bathsheba Fairfield of Vassalboro, and immediately removed to his log cabin in 1774,-75. His first son, James, junior, was born the following year, being the first male child born of English parents within the limits of Somerset County. When danger was apprehended from the Indians, he was appointed captain of the guard; after the incorporation of the town of Starks he was chosen town clerk and selectman from year to year as long as he was able to attend to business; for many years acting magistrate of the county. Rev. Charles F. Allen, D. D., in his series of historical sketches of Somerset County, published in the *Fairfield Journal*, describes Col. James Waugh as one of nature's noblemen. With but limited opportunity of acquiring an education, for he never attended school but three weeks, yet under the efficient teaching of an excellent mother, he took a good position among learned men, was noted for the breadth of his intelligence and good common sense, and sustained with honor the different offices to which he was called. He was twice chosen Representative to the General Court of Massachusetts, several years he served as Chief Justice of the Court of Sessions, and for many years was colonel of the militia. He was always regarded with high esteem as a citizen, a magistrate and an officer. He died in 1826, honored and lamented.

OBED WILSON, Bingham, son of Oliver Wilson, born in Norridgewock Oct. 15, 1778. Spent his boyhood working on a farm in Starks, near Indian Old Point, at mouth of Sandy river. School advantages meagre, but by diligently improving his spare time with books he laid the foundation of a substantial business education. In 1799 married to Christina Gray of Emden, who died Nov. 13, 1834. Married 2nd in 1837, Mrs. Martha Cox. In 1802, he moved to Bingham (then called Carratunk) where he cleared and cultivated a farm. During a revival in 1804 or 1805, he was converted and became impressed with the conviction that it was his duty to preach the gospel. His first sermon was in 1806, and thenceforward while busied with his farm through

the week he preached, with little intermission on the Sabbath. Was ordained Elder at the conference in Vienna in 1828, and from that time devoted a large portion of his time to the ministry. For more than thirty years he attended funerals in his own and neighboring towns. He was prominent in civil affairs of town and State, and several times member of the house of representatives and of the senate. In 1837 he removed to Skowhegan and took charge of the Methodist church at that place. He was a member of the Board of Overseers of Maine Wesleyan Seminary from its organization until his death, which took place Nov. 18, 1840.

PENOBSCOT COUNTY.

NATHANIEL ATKINS, Exeter, was one of the early settlers of the town (incorporated in 1810). Was assessor in 1818, and his proportion of a total tax of \$300 was .93.

SAMUEL BUTMAN, Dixmont, was state senator in 1826 and in 1827.

SAMUEL CHAMBERLAIN, Foxcroft, was a native of Charlton, Worcester county, Mass. (the oldest son of Eliakim C., a native of that county); born May 19, 1784; married Abigail Tucker (a native of same town, born July 26, 1788) Sept. 13, 1807; died June 2, 1838. He had visited the forest of Maine in the summer of 1807, and selected a place for a home, to which he moved immediately after his marriage, reaching there in October of that year. Mr. Chamberlain was an educated man for the time, having, in addition to the public school, been a private pupil of an educated professional man of the town. In his new home, he bore his full share of labor and privation incident to a new settlement. He earned his military title by serving as Captain of the first company organized within the present limits of Piscataquis county. From the organization of the town, in 1812, he held one or more town office in each year, to the end of his life. He represented his District in the State Legislature in 1832. He was a trustee of Foxcroft Academy, and its treasurer from its incorporation. All his children enjoyed the advantages of that school. His children: eight daughters and two sons,—six of whom are now living,—four of them having their home in Fox-

croft. Three of the daughters are now (in Oct. 1894) living, to wear the honors of being great-grandmothers. His son, Hon. Calvin Chamberlain, of Foxcroft, entered upon his 85th year in 1894; Calvin's older sister is past 86, and the one next younger nearly 82. For other particulars, see Loring's History of Piscataquis County, 1880, page 113.

JACKSON DAVIS, Orono, was a member of the house of representatives in 1820 and 1821.

LUTHER EATON, Eddington, a justice of the peace in 1827.

ISAAC FARRAR, Dexter. (No facts concerning Mr. Farrar have been obtained.)

AMOS GORDON, Garland. (No facts concerning him have been found in the state or town histories.)

BENJAMIN C. GOSS, Sangerville, was a town clerk a few years, a shoemaker by trade, taught school. He possessed good native endowments and possessed qualities that might have led him to high literary and political position. He seems to have removed to Sangerville from Readfield, and after a few years returned to Readfield.

MOSES HODSDON, Levant, was appointed a justice of the peace as late as 1827.

JOSEPH KELSEY, Guilford. Called the first town meeting of Guilford in 1816. In 1815 built a sawmill on Salmon Stream in Guilford. Was representative to first Maine Legislature. Was several times re-elected to that office, was twice a senator, twice a county commissioner, also Indian agent and postmaster. He also held many town offices. Was a friend and trustee of Foxcroft Academy. He was affable, generous and public spirited, an obliging and highly esteemed neighbor. Toward the close of his life he removed to Foxcroft, and died there July 16, 1861. He raised up a large and enterprising family. His oldest son Joseph L., went west in 1835, and invested fortunately in timber lands in Michigan. Joel W. became a partner with him and gained capital for a successful career. Joel later became an extensive pork-packer in Toledo, Ohio. Mr. Kelsey died of small pox and his wife died of the same disease a few days later.

GEORGE LEONARD, Brewer, was the son of Dr. Jonathan and Rebecca (Smith) Leonard, born in Norton, April 15, 1784. Moved to Orrington (the Brewer part) in June, 1806, and bought a farm fronting on Penobscot river. Was elected to many town offices in Orrington before the incorporation of Brewer (1812) and after that was selectman of the latter town many years. Representative to the legislature several years. In 1834 he sold his farm and moved to Bangor where he built a residence. Was a notary public and a justice of the peace. Died Sept. 21, 1852. Married, Sept. 26, 1805, to Margaret B., daughter of Capt. Philip King. Their daughter, Sarah Bowers (born 1806) married Wm. Copeland of Brewer. Their son George (born 1809) became a distinguished civil engineer, writer and author, and died at Shrewsbury, Mass., in 1873. Their son Edwin (born 1826) graduated at Bowdoin College, and entered the Congregational Ministry in 1852, and in 1891 was settled at Morris, Conn.

WILLIAM R. LOWNEY, of Sebec, was a settler in 1812. He was a leading man in town affairs. He became wealthy and was highly esteemed as a citizen. He died about 1850.

WILLIAM PATTEN, Hermon. Member of the house of representatives in 1824.

ABEL RUGGLES, Carmel, born at Hardwick, May 26, 1775. Removed to Carmel in 1790. Married Lucinda Thomas of Hardwick. Member of the house of representatives, 1823. Both Mr. Ruggles and his wife died in 1860.

BENJAMIN SHAW, Newport, was a member of the house of representatives in 1820 and 1821.

ELEAZER W. SNOW, Atkinson, removed to that town from Plymouth, N. H., in 1818, to establish himself as a physician. Three elder brothers had preceded him and taken lots for farming. Dr. Snow was a graduate of Dartmouth College. At the first town meeting (1819) he was elected clerk. After the organization of Piscataquis County (in 1838) he was appointed judge of probate, and held that office seven years. Dr. Snow is remembered as a very good physician, an esteemed and useful citizen, affable, kind and generous, a man of refined tastes and culture, every way honest, upright and reliable. He died in 1849. One of his sons, Dr. E. P. Snow, succeeded him in practice.

ANDREW STRONG, Corinth. Justice of the peace in 1821, and for many years afterwards.

SIMEON STETSON, of Hampden, was born in Randolph, Mass., in 1770. He came to the District of Maine in the spring of 1804 when 34 years of age, and established himself in business in the town of Hampden, where he resided till his decease. He was a prominent man of affairs in that section of the state; was engaged in an extensive mercantile business; cultivated a large farm; was the principal manager of the business of the town of Hampden for a long series of years; was a magistrate and tried causes, and gave some attention to politics. He was a member of the Executive Council of Governor Enoch Lincoln in 1829. His wife was a woman of rare merit,—diligent, careful, generous, hospitable and of refined tastes. He had six children,—five sons and one daughter,—one of his sons being the late Charles P. Stetson, Judge of the Municipal Court of Bangor, and representative to Congress in 1849-1850. Mr. Stetson died in 1836.

JOSEPH TREAT, Bangor, was son of Major Robert Treat (born in Boston, 1752, one of the first settlers of Bangor). Joseph was born Dec. 8, 1775, and is said by some to have been the first white male child born in Bangor. Was a captain in the war of 1812. Afterwards elected major and brigadier general of the regiment on Penobscot river. Representative to the General Court in 1817 and '18, and to the Maine Legislature in 1823 and '24. A man of ability and a conspicuous citizen. Was the founder of Mount Hope cemetery (Bangor) which is on what was his and his father's estate. Never married. Died Feb. 27, 1853.

JOHN WHITNEY, Newburgh, was son of Amos Whitney who moved to that town as one of its early settlers. John was twelve years old when he accompanied his father to the wilderness, and he lived there sixty years. He received a common school education and taught school several winters. He was selectman for many years, also town clerk, treasurer and school committee member. He died at the age of 87. Married Betsey Fairbanks. A large family of children. One son, Calvin H. Whitney, served in the Maine Legislature, and was postmaster for more than thirty years. He married Rebecca C. Steward of St. Albans. Six children.

DANIEL WILKINS, New Charleston, was a member of the first four houses of representatives—in 1820 to 1823. He was State senator in 1824, and a member of Gov. Parris' council. Justice of the peace in 1821.

JOHN WILKINS, Orrington, was representative to the General Court in 1812, '13 and '14. Was a register of deeds in 1815 and subsequently, was also county treasurer.

(Since the preceding pages passed through the press the publisher has received from Mr. Joseph Wood—a grandson—a more complete and interesting biographical sketch of Abiel Wood than the one given on page 88, and it is here inserted for preservation although it is out of its proper alphabetical position.)

ABIEL WOOD, Wiscasset, Lincoln County. Born in Wiscasset, Maine, (then Wiscasset Point, town of Pownalborough, District of Maine, State of Massachusetts,) July 22, 1772. Eldest son of General Abiel Wood who came from Middleborough, Mass., August, 1766, and settled in Wiscasset where he carried on a mercantile business for many years, dying Aug. 11, 1811, at the age of 67 years. Major Abiel, as he was commonly known,—he was an officer in the Massachusetts militia,—married Hannah Hodge, the mother of his seven children, in 1793. After her death in 1814, he married Jane Anderson, who died in 1827, and in 1830, Lydia Theobald who survived him and was afterwards Mrs. Bartholomew Nason, of Hallowell. Major Wood's eldest daughter, Betsey, married Richard Cobb, of Portland. Her daughter Helen was the wife of Governor Henry J. Gardiner of Boston, Mass. His eldest son, Wilnot, was a lawyer in Wiscasset and died in 1865. His second son Abiel was a Baptist clergyman, preaching in Wiscasset and vicinity (father of the writer of these memoranda, Joseph Wood, editor of "Seaside Oracle" at Wiscasset, "Mount Desert Herald" at Bar Harbor, and "Maine Coast Cottager" at Bar Harbor and Portland, for many years Secretary of the Maine Press Association.) His other children were: Helen, who married John H. Sheppard, lawyer, well-known in Masonic circles, historical writer and secretary of the N. E. Historic-Genealogical Society of Boston, Mass. Isabella, married Isaac H. Coffin of Wiscasset. Hannah, married Edward K. Butler, Esq., of Hallowell; and Margaret who died in childhood. Major Wood was a member of Congress from Massachusetts, 1813-'15. Member of Massachusetts Legislature 1807 to 1811 and in 1816. State councilor of Maine 1820 and 1821. Member of the Constitutional Convention of 1819. He held many minor offices and positions of trust. He was president of the Lincoln and Kennebec Bank of Wiscasset, and at the time of his death was one of the Bank Commissioners of the State. Mr. Wood was one of the largest ship-owners in New England, and at one time owned more vessels than any other man east of Boston. He was heavily engaged in the timber trade with England, and in common with many other New England merchants suffered financial reverses at the time of the Embargo, when many of his full rigged ships lay rotting at the wharves. His death occurred suddenly at Belfast, Maine, Oct. 26, 1834, where, in his official capacity, he had just completed an examination of the Belfast Bank, in the 63d year of his age. Abiel, (father of strength, the same in both Hebrew and Latin,) is a very common name in our family. The first of that name—of whom I have record—being my great-great-great-grandfather, Abiel, b. 1657, d. 1719; then came my great-great-grandfather, named Ebenezer, b. 1697, d. 1768; then my great-grandfather, General Abiel, b. 1744, d. 1811; then my grandfather, Major Abiel, b. 1772, d. 1834; then my father, Rev. Abiel, b. 1807, d. 1866; and last my elder brother Abiel, b. 1831, d. 1892.

JOSEPH WOOD.