

SATURDAY, OCTOBER 10, 1846

Prayer by the Rev. Mr. McHugh.

The journal of yesterday was read.

Wm. R. Smith, from the committee on militia, reported No. 4, "Article relative to the militia."

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

"Section 2. The militia of this state shall be divided into convenient divisions, brigades, regiments, battalions, and companies, with officers of corresponding titles and rank to command them, conforming as nearly as practicable to the general regulations of the army of the United States.

"Section 3. Captains and subalterns in the militia, field officers of regiments, brigade inspectors, brigadier generals, and major generals shall be elected or appointed in such manner as shall hereafter be provided by law.

"Section 4. The governor shall appoint the adjutant general and other members of his staff. Major generals, brigadier generals, and commanders of regiments and separate battalions shall respectively appoint their own staff. All staff officers may continue in office during good behavior, and shall be subject to be removed by the superior officer from whom they respectively receive their appointment.

"Section 5. All military officers shall be commissioned by the governor.

"Section 6. 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, or regulated by the legislature.

W. R. SMITH, Chairman."

The report of the committee was accepted and the committee discharged from the further consideration of the subject. The said article was then read the first and second times, referred to the committee of the whole, and on motion of William R. Smith 150 copies thereof ordered to be printed.

Mr. Meeker, from the committee on internal improvements, reported No. 5, "Article relative to internal improvements."

"The committee to whom was referred the subject of internal improvements beg leave to make the following report:

"Internal improvements shall forever be encouraged by the government of this state. But the legislature shall in no case create or incur a state debt for that object, without at the same time providing means for the payment of the interest thereof, and the final liquidation of the same.

M. MEeker, Chairman
N. F. HYER
J. F. WILSON
WM. C. GREEN"

The report of the committee was accepted and the committee discharged from the further consideration of the subject. The said article was then read the first and second times, referred to the committee of the whole, and on motion of Mr. Phelps 150 copies thereof ordered to be printed.

Mr. Crawford introduced the following resolution, which was read, to wit: "*Resolved*, That all laws for the collection of debts shall forever be prohibited within this state."

Mr. Doty introduced the following resolution, which was read, to wit: "*Resolved*, That the committee on the organization and formation [functions] of the judiciary be instructed to inquire into the expediency of providing in this constitution that the legislature at its first session after the adoption of the constitution shall provide by law for the appointment of three commissioners, whose duty it shall be to revise, reform, simplify, and abridge the statutes and the rules of practice, pleadings, forms, and proceedings of the courts of record of this state, and to report thereon to the legislature, subject to their adoption and modification."

The preamble and resolution introduced yesterday, relative to the election of printer, was then taken up, when Moses M. Strong asked and obtained leave to withdraw the same.

Moses M. Strong moved that his resolution in reference to the election of a printer by viva voce be taken up and considered.

On motion, the resolution was read.

John Y. Smith said it was with feelings of some delicacy he rose to say a few words upon this subject. Many gentlemen might infer that this proposition to reconsider the vote upon printer was liable to the construction that it was made at the instance of the proprietors of the *Argus*, in consequence of their defeat. He was fully convinced of the informality of the proceedings and was aware that many gentlemen would agree with him in this view. Yet he and all the proprietors of the

Argus were fully satisfied with the result of the election and had no wish to "try another scratch" for the printing of the convention. The object of the friends of this resolution was to place the proceedings of this body in a proper shape—it had no reference to the *Argus*. The resolution did not arise with the proprietors; they had no wish that the subject should be renewed. The election had been gone into and decided—it was not to be denied that the convention had elected a printer—they had done what they had previously resolved to do, and he was satisfied, as were all the proprietors of the *Argus*. They had received a majority of all the Democratic votes in the convention, which fully satisfied them in regard to the result. He thought it no more than proper to state, however—what everybody already knows—that this result was not brought about by the Democrats in this body, but by an amalgamation of the influence of Whigs, bank Democrats, conservatives, and no-party men. A few of the true and tried Democrats had voted against them he knew; yet he thought they would be sorry they had pursued such a course when they more fully understood the circumstances of the case. Among his opponents he was not surprised to find men who had gloried in their attachment to John Tyler—men who had defrauded this territory out of \$30,000 and had judgments on their backs for the amount. He hoped the motion would not prevail.

Moses M. Strong said it was due to truth to say that the resolution originated with himself alone, without consultation upon the subject with any person whatever, and he wished the whole responsibility to rest upon his shoulders and not upon those of anybody else; his shoulders were broad, and were already tolerably burdened with responsibility; yet they were still capable of sustaining this and much more. He thought the circumstances attending the election called for this movement, and thought so still, but would withdraw the resolution out of respect to those Democrats who had voted against him on the question of printer.

Leave was granted, and the resolution withdrawn.—*Express*, Oct. 12, 1846.

The resolution introduced yesterday relative to adjournment was then taken up, when Mr. Judd asked and obtained leave to withdraw the same.

The following rule, introduced by Moses M. Strong, was then taken up and adopted, to wit: "Rule — Every proposition which it is proposed shall form a part of the constitution shall, [after it shall] have been considered in committee of the whole, and after the amendments reported by the committee of the whole shall have been acted on, be open to amendment in the convention, and when there are no further amendments to be proposed the question shall be on ordering the proposition to be engrossed for its final passage, and after the same shall have been engrossed the same shall not be amended except by the unanimous consent of the convention."

Moses M. Strong moved the amendment to the rules offered by him yesterday be now taken up. Mr. Strong went into an explanation of the object of this amendment. It was that all resolutions should, after being amended and finally passed, be engrossed in a fair hand, for the final action of the committee on revision.

Mr. Ryan was of opinion that the lines had not been, nor could be, so distinctly drawn between the duties of the different committees that their reports would not in many cases cover the same grounds; propositions would come in from other committees covering the grounds already reported upon. And he considered it would be the proper duty of this committee on revision to sift out, examine, and prepare a perfect synopsis of all the business of the convention.

Moses M. Strong said propositions would be introduced and referred to a committee of the whole before the final action upon them in convention. It was the object of this rule to have these propositions with all the amendments thereon inserted in their proper places, and then engrossed in a plain hand for the revision of the committee, instead of the plan now pursued of tacking the several amendments to the original proposition with a bit of wafer, which was liable to become detached and the amendments lost or mislaid. He considered this a loose way of keeping a record of the doings of the convention and would like to see it done away with.

Mr. Ryan called for another reading of the resolution.

Mr. Judd said he agreed with the member from Iowa that the amendment was right and proper; the subject matter contained in the amendment had not escaped the attention of the committee to whom was entrusted the duty of drafting the rules; and he thought the sixteenth rule adopted by the convention covered the ground of this amendment.

The question on the adoption of the amendment was put and carried.—*Express*, Oct. 12, 1846.

The following resolution, introduced yesterday, was then taken up and adopted, to wit: "*Resolved*, That 150 copies of all reports of committees and of all petitions and resolutions ordered to be printed be printed for the use of the convention without further orders."

On motion of Mr. Ellis the convention adjourned.

Mr. Moses M. Strong moved that the convention resolve itself into a committee of the whole on the article on banking, and Mr. Wm. R. Smith hoped the motion of the gentleman would not prevail. He was opposed to the provisions of the article, which made banking criminal and enacted a penalty. To enact a penal code was the legitimate business of a legislature and not of a convention. To remove these objectionable features he would move to refer the article to a select committee with instructions to strike out the penalties.

Mr. Chase: The motion to refer is out of order, as it is already referred to the committee of the whole.

But he should oppose going into committee at this time because he wanted the report of the minority of the committee, which had been promised, and which he supposed would be ready by Monday next.

Mr. Ryan was in favor of delaying till the minority can make a report: While up, I will take occasion to say a few words in support of the report itself, seeing that it has been attacked by the gentleman from Iowa (W. R. Smith) because there are penalties attached to its violation. This, I am told, is an unheard of thing in framing constitutions. Let that gentleman look into any of the constitutions of the states, or of the United States, and he will find precedents for these provisions. I have examined nearly all of them, and I find similar provisions. I will read them if the gentleman desires to hear them. Then

there is precedent; but if there were none, could not this convention step out of the usual track and attach a penalty to a breach of the constitution? Constitutions are made to restrict and restrain legislators, as well as to protect the citizen. Therefore, when you would limit the legislature, you place the provision in the constitution; when you would prohibit the passage of laws, you place the prohibition in the constitution; and when you would restrict, it is placed in the constitution. I hope this convention has a decided majority of "hards"—of men who are opposed to all banks, banking, and bank paper. But who can tell when there will be a "soft" legislature? Let a "soft" legislature come into power, and the penalties will at once be put down so that it will be for the interest of any corporation to pay the fine for the sake of the money they can make. The law will be as "soft" as it is now, when any company may be ready and willing to pay \$1,000 a year for the privilege. Leave the question open, and the halls of legislation will be beset with "softs" asking for privileges, bitterly complaining that high penalties cannot be paid, as the business of banking is not as good "as it used to was." Give us low penalties, and we will pay them. I would place these restraints, limits, and penalties where the "softs" cannot reach or reduce them. I fear the "softs." They cannot be killed. The hundred heads of the hydra might be lopped off, but the "softs" have no heads. They spring up on every hand; they sway and govern the legislatures. Look at the new states—democratic, "hard," as are the body of the people; see how the "softs" have carried all their measures and involved the people. Let it not be so in Wisconsin. Place the penalty where the "softs" cannot reach it. Before I will consent to have the penalty reduced, I will vote to increase it. I belong to that party which would give to banking no quarter.

Mr. Moses M. Strong would postpone the matter until Monday, which would, he thought, give ample time to the gentleman from Fond du Lac, Mr. Gibson, to make his report. His colleague has made a remark against this article which he could not consent to let pass unnoticed. He, Mr. Wm. R. Smith, opposes the article because it contains a penal enact-

ment. The propriety of those penalties has been abundantly proved by the gentleman from Racine. Why should the article be sent to a select committee to make a report? Is the gentleman who is here as the representative of a most decidedly "hard" constituency who give no countenance to banks or bank paper desirous of distinguishing himself by making a "soft" report? If the convention wish to strike out the provisions they can as well be done in committee of the whole as in a select committee. Mr. Strong concluded by withdrawing his motion to go into committee, and the convention adjourned.—*Argus*, Oct. 13, 1846.

Moses M. Strong moved that the convention go into committee of the whole on the report of the committee on banks and banking.

W. R. Smith was in favor of the report being submitted to a select committee before going into committee of the whole upon it. He was of opinion that the report was objectionable in regard to affixing penalties, as that power should be more properly vested in the legislature.

Mr. Chase said the report had already been referred to the committee of the whole, but he did not consider the proper time had arrived for such action on the report. The minority members of the committee had given notice of intention to make a minority report, and it was due in courtesy to those gentlemen to wait until such report was submitted.

Mr. Ryan assented to the remarks of the last gentleman, that it was proper to wait the minority report before going into committee of the whole, but would say a few words in regard to affixing penalties being beyond the limits of the duties of this convention and confined to the legislature. He knew the committee had not exceeded their power in this respect. The Constitution of the United States and of every state in the Union contained clauses of this character—Florida, Texas, and the constitution of every state which he had yet seen embraced penalties; authority and example can be found in every constitution. It was his wish that the constitution of Wisconsin should be an independent one, made by ourselves and for our-

selves, only taking the lights and experience of the older states for our guide. It was not until the gentleman from Iowa mentioned the subject of penalties that he thought of looking into the constitutions of other states for authority, but he had since glanced over them and found such authority in every one of them. He wished this constitution in a great measure to be the law, without reference to the legislature; he hoped and believed this convention is a "hard" one, and they should not limit the power of the convention in such a manner as to enable any future "soft" legislature to put down penalties without violating the constitution. He intimated the probability of future "soft" legislatures being influenced by interested lobby monopolists and bank men who will haunt this place session after session to reduce the penalty to a mere nominal sum, but, as he was one of the "hards," would be willing to raise it to \$100,000 instead of \$10,000.

Mr. Ryan was violently opposed to any banks and profuse in his favorite phrases of "hards," "softs," and "lobby beggars"; and after reiterating his fears of the corruption of all future legislatures, and his willingness to affix the penalty for "making, signing, or issuing within this state any paper money, bank note, promissory note, bill, order, check, certificate of deposit, or any other evidence of debt whatever, intended to circulate as money," \$100,000 or imprisonment for twenty years, sat down, evidently much pleased with himself.

Moses M. Strong withdrew his motion to go into committee of the whole, but gave notice that he should renew it on Monday, which he said was allowing the minority sufficient time to prepare their report, as five minutes had been found long enough to prepare the majority report. He disagreed with his colleague in regard to submitting this report to a select committee. The committee of the whole were as competent to decide upon it as any select committee. He did not favor the idea of endeavoring to smother it in the secret chamber of a select committee.

Moses M. Strong moved that the convention go into committee of the whole on elections and suffrage, which he afterwards withdrew for the same reason as above.

Moses M. Strong moved that the convention go into committee of the whole on the eminent domain and property of the state.

Marshall M. Strong remarked that sufficient time had not been allowed to compare the report with the provisions made on the subjects by other states, and he therefore hoped the matter would be further postponed.—*Express*, Oct. 12, 1846.