

WEDNESDAY, OCTOBER 21, 1846

The journal of yesterday was read and corrected.

Petitions were presented and referred as follows:

By Mr. Burchard, a petition of 85 inhabitants of Waukesha County, asking that a provision be adopted in the constitution allowing all persons to enjoy the elective franchise without distinction of color, which on his motion was referred to the committee of the whole.

By Mr. Fuller, a petition of citizens of Wisconsin Territory, asking to have a provision engrafted in the constitution exempting from execution a certain amount of property; also, a petition of citizens of the county of Dane on the same subject, which, on his motion, were referred to the committee on miscellaneous provisions not embraced in the subjects committed to other committees.

Marshall M. Strong asked that leave of absence be granted to Mr. Dickinson. Leave was granted.

Moses M. Strong, from the select committee to which had been referred the rules for the government of this convention to revise and correct, reported the same back to the convention with amendments. The said report was accepted and the committee discharged from the further consideration of the subject.

Marshall M. Strong moved to amend the report, so that the morning hour of [meeting] be ten o'clock. And the question having been put, it was decided in the negative. And a division having been called for, there were 15 in the affirmative, negative not counted.

Moses M. Strong moved that the rules as reported be adopted and that 200 copies be printed in pamphlet form, and in connection therewith a list of the standing committees, the names of the members of the convention, their residence and boarding house, which was agreed to.

Marshall M. Strong, from the committee on the constitution and organization of the legislature, reported No. 10, "Article on the constitution and organization of the legislature."

"The committee on the constitution and organization of the legislature report the following article:

"Section 1. The legislative power shall be vested in a senate and house of representatives.

"Section 2. The number of members of the house of representatives until otherwise provided shall be 45, which number shall never be diminished, but may be increased by law to any number not greater than 100; the senate shall at all times equal in number as nearly as may be one-third of the number of the members of the house of representatives.

"Section 3. The legislature shall provide by law for an enumeration of the inhabitants of this state in the year 1855, and at the end of every

ten years thereafter, and may also provide for such enumeration in the year 1848; and at their first session after each enumeration so made as aforesaid, and also after each enumeration made by the authority of the United States, the legislature shall apportion anew the representatives and senators among the several districts according to the number of inhabitants, excluding Indians not taxed and soldiers and officers of the United States army and navy.

"Section 4. The state shall be divided by the legislature at its first session after each new apportionment into as many representative districts as there shall be representatives to be elected, and also into as many senate districts as there shall be senators to be elected; such districts shall be composed of contiguous territory.

"Section 5. The representatives shall be chosen annually on the day of the general election, by the qualified electors of the several districts; the senators shall be chosen biennially for two years, at the same time and in the same manner as the representatives are required to be chosen.

"Section 6. Senators and representatives shall be qualified electors in the respective districts which they represent, and shall have resided at least one year in the state.

"Section 7. No person holding any office under the United States, postmasters excepted, shall be eligible to either house of the legislature.

"Section 8. A majority of each house 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 may provide. Each house shall choose its own officers.

"Section 9. Each house shall determine the rules of its proceedings and judge of the qualifications, elections, and returns of its own members; may punish contempts, and its members for disorderly behavior; and may, with the concurrence of two-thirds of all the members elected, expel a member; but no member shall be expelled a second time for the same cause.

"Section 10. Senators and representatives shall in all cases except treason, felony, and breach of the peace be privileged from arrest; nor shall they be subject to any civil process during the session of the legislature, nor for fifteen days next before the commencement and after the termination of each session.

"Section 11. The legislature shall meet at the seat of government on the second Thursday of January in every year, and at no other period, unless otherwise directed by law or provided for in this constitution.

"Section 12. The governor shall issue writs of election to fill such vacancies as may occur in the senate and house of representatives.

"Section 13. The style of the laws of this state shall be, 'It is enacted by the legislature of the state of Wisconsin as follows, viz.'

"Section 14. Each member of the legislature shall receive for his services two dollars for each day's attendance during the first thirty days of any session, and one dollar for each day's attendance during

the remainder of such session, and ten cents for every mile he shall travel in going to and returning from the place of meeting of the legislature, to be computed by the most usually traveled route.

"Section 15. Every bill which shall have passed both houses of the legislature shall be presented to the governor; if he approve, he shall sign it and transmit it to the secretary, but if not, he shall return it to the house in which it originated, with his objections, which shall be entered on the journal of the house; and if such house shall upon reconsideration again pass it by a majority of all the persons elected to such house, it shall be sent, with the objections, to the other house, and if approved also by a majority of all the persons elected to that house, it shall become a law; but in such cases, the votes of both houses shall be determined by ayes and nays, and the names of the members voting for or against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within three days after it shall have been presented to him, the same shall become a law in like manner as if he had signed it. And all bills which shall have been presented to the governor twelve hours before the end of the session of the legislature shall be signed by him or returned with his objections."

The said report was accepted and read the first and second times and referred to the committee of the whole and ordered printed.

Resolutions were introduced and read as follows, to wit:

By Wm. B. Smith, "Resolved, That the committee on miscellaneous provisions be instructed to embody in their report the following articles:

"First. The political year shall begin on the first day of January.

"Second. WHEREAS ministers of the gospel are by their profession dedicated to the service of God and the care of souls, and ought not to be diverted from the great duties of their functions, therefore no minister of the gospel or priest of any denomination whatsoever shall at any time hereafter, under any pretence or description whatever, be eligible to, or capable of holding any civil or military office or place within this state.

"Third. All property of the wife owned by her at the time of her marriage and that acquired by her afterwards by gift, devise, descent, or otherwise than from her husband shall be her separate property. Laws shall be passed providing for the registry of the wife's property and more clearly defining the rights of the wife thereto, as well as property held by her with her husband."

By Mr. Cooper, "Resolved, That the sergeant at arms shall prohibit smoking in this hall during the daytime while this convention shall remain in session."

By Mr. Moore, "Resolved, That the subject on negro suffrage be submitted to the people in a distinct proposition to be voted on at the next general election, and, if approved, shall become a part of the constitution."

The following resolution was taken up and adopted, to wit: "Resolved, That the committee on the organization and 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 following resolution was taken up and adopted, to wit: "*Resolved*, That the committee on miscellaneous provisions not embraced in the subjects committed to other committees be instructed to inquire into the expediency of introducing a provision to be incorporated in the constitution, forever prohibiting imprisonment for debt."

The resolution introduced by Mr. Strong on yesterday, relative to terminating all debate on No. 2, "Article on suffrage and elective franchise," was taken up, when Mr. Hunkins moved that said resolution be laid on the table. And the question having been put, it was decided in the affirmative. And a division having been called for, there were 49 in the affirmative and 24 in the negative.

The following resolution was taken up and adopted, to wit: "*Resolved*, That the committee on expenses of this convention be instructed to ascertain and report the amount due the members of this convention for mileage to and from this place."

The resolution introduced by Mr. Cruson on yesterday, relative to education, was taken up, when Mr. Cruson moved to refer the same to the committee on education, [schools, and] school funds, which was agreed to.

The following resolution was then taken up, to wit: "*Resolved*, That no person or persons shall ever be permitted to purchase or own any real estate within this state who are not capable of becoming citizens of the United States." Mr. James moved to refer the same to the committee on miscellaneous provisions, which was agreed to.

The convention then resolved itself into committee of the whole for the consideration of No. 2, "Article on suffrage and the elective franchise," Mr. Baird in the chair. And after some time spent therein, rose and by their chairman reported progress thereon and asked leave to sit again. Leave was granted.

On motion of Mr. Ryan the convention took a recess until two o'clock, P. M.

Mr. Reed offered an amendment to the report, to strike out "twenty-one" and insert "eighteen" as the age at which citizens should become eligible to exercise the right of suffrage.

Mr. Baker moved to amend the amendment by striking out "eighteen" and inserting "twenty-five."

The question was first put upon Mr. Baker's amendment, which was lost, and then recurred upon Mr. Reed's, which shared the same fate.

Mr. Giddings offered an amendment to strike out the "white" before male persons, which would extend the right of suffrage to every male person over twenty-one years of age.

Mr. Magone offered as an amendment that the word male be stricken out and the right of suffrage be extended to females as well as males.

Moses M. Strong hoped the gentleman would withdraw the last amendment and allow those in favor of negro suffrage to obtain a vote and have a fair test of the question.

Mr. Magone was in favor of females voting and wished to tack the motion to a popular resolution to insure its success.

Mr. Strong said he was a friend to females, and it was for that reason he did not wish to see them tacked on to negroes.

Some further conversation passed between the gentlemen on the subject, and the question was then put on the adoption of Mr. Magone's amendment, which was lost.

The question then recurred upon the amendment of Mr. Giddings to strike out the word "white."

Warren Chase supported the amendment, not from any personal considerations, for he was connected with abolitionism in no manner or form; neither was there a negro in the county which he represented; but he considered it a great matter of expediency to abolish this distinction; the existence of this one word in the article was, in his view, the very foundation upon which the abolition party would be raised and other parties distracted.

Mr. Ryan was opposed to the amendment. In the first place, he believed that this extension of the right of suffrage would cause our state to be overrun with runaway slaves from the South, who now made the Canadas their point of destination. He believed God had placed an insuperable mark of separation upon the two races, and he believed that those whom God had placed apart no man should bring together, as much as he did the command "that those whom God had joined together no man should put asunder." It was not right to mingle together two races whom God had declared could not mingle. Mr. Ryan continued his remarks at some length, citing the situation of the colored population in the city of New York as an instance

of their abject social condition and habits, where, he said, every negro was a thief, and every negro woman far worse, and called upon any gentleman present to refute this position. He adverted to the system of colonization as the proper mode of effecting the object aimed at by those friendly to the negro race, and bade Godspeed all who were endeavoring to elevate this unfortunate class of men, but thought it would be an injustice to the negroes themselves, as well as whites, to place the two races in the same scale of social equality.

Mr. Whiteside was also opposed to the proposed amendment and supported his opposition at some length.

Moses M. Strong came out in a violent speech in opposition to negro suffrage. He had not intended to say anything on this subject, but to leave it to be settled by the committee; there was less reason for him to make a speech now, as everything he could have said had been said by the member from Racine and his colleague. This much he would say, however, that he was teetotally opposed to negro suffrage in any manner or form that could be devised. If this negro clause was inserted in the constitution, he could promise gentlemen that it would not receive fifty votes west of Rock River; the people would deem it an infringement upon their natural rights thus to place them upon an equality with the colored race. He came down upon the abolition party like a perfect avalanche; was in favor of no half-way measures with them, but would give them war—war to the knife, and the knife to the hilt! He alluded to the fact that the member from Winnebago had the largest proportion of negroes in his county of any other in the state, yet he had said nothing in favor of their being allowed the right of suffrage, and he hoped every Doty man in the committee would vote with him on this question.

Mr. Tweedy next took the floor in support of the substitute. His remarks will probably be published hereafter.

Marshall M. Strong said he had voted for and advocated the spirit of this doctrine in the legislature, but had since changed his views on the subject and would now vote against it.

General W. R. Smith wished to correct a remark made by the gentleman from Milwaukee in regard to the existence of negro

suffrage in Pennsylvania and went into quite a lengthened essay on the rise and progress of the system in that state from the time of William Penn down to the adoption of the present constitution.

Mr. Bevans was opposed to the principle contained in the amendment. He respected the philanthropic feelings of the gentlemen who advocated the elevation of an unfortunate class of beings, but thought they took the wrong course to secure it. He moved that the committee rise and report progress, which motion was carried and the committee rose.

The convention then adjourned to two o'clock.—*Express*, Oct. 27, 1846.

TWO O'CLOCK, P. M.

The convention again resolved itself into committee of the whole on No. 2, "Article on suffrage and the elective franchise," Mr. Baird in the chair. And after some time spent therein rose and by their chairman reported progress thereon and asked leave to sit again. Leave was granted.

On motion of Mr. Crawford the convention adjourned.

Mr. Ryan again took the floor as he said to make one remark more on this subject, but instead of one remark occupied about an hour with many remarks, all in opposition to the proposed amendment.

General John Crawford wished to make a remark or two somewhat digressive from the subject, he said, and asked if such would be in order. (Go on, go on.) Mr. Crawford then proceeded as follows:

Mr. President—I will suppose a case. Supposing there was a convention of delegates assembled to frame a constitution consisting of one hundred and twenty members, and there were amongst them twenty Whigs, very docile, and one hundred Democrats. Amongst the Democrats there were twenty-five lawyers, and each lawyer should occupy the body two days in long and useless speeches that would convey nothing more than a common-sense man could convey in five minutes. The question is, What is the difference in the time spent? And who is responsible for the useless waste of that time? Supposing they

were determined to saddle upon the people such obnoxious features as pains and penalties, that the people would not adopt the constitution. Who is to blame? Why, sir, the remaining seventy-five must answer for it! But I hope such a thing will never happen in our glorious Wisconsin.

Mr. Gibson did not wish to occupy the attention of the committee but a few moments. If he had properly understood the remarks of the gentleman from Iowa, one of his principal objections to allowing the colored population the right of voting was that the people would object to the constitution. If the people of the west were opposed to negro suffrage, the people of the east were equally in favor of it, and the north and east as strenuously advocated this question of free suffrage as the west opposed it. This feeling was increasing daily and would continue to increase as long as this question was agitated. The gentleman from Racine had intimated that should we extend to the colored race the right of free suffrage and still refuse to commingle, intermarry, and eat and drink with them, it would not benefit them at all; it was all idle talk. The same objection would bear equally against the Indian as the negro—the same principle would operate with the Indian; yet he had voted for the extension of the right of suffrage to the Indian! He was opposed to sustaining the institution of slavery in this country and would vote against it in any manner or shape. The state of New York had tried the system of negro suffrage under certain restrictions and was so well satisfied of its justice that the late Democratic constitutional convention had submitted a separate proposition to the people, for their decision, providing for the extension of the right without the former qualifications. He believed the whole system of a republican government opposed to depriving negroes of the right of suffrage—the whole principle of republican institutions, from foundation to capstone, opposed to infringing upon the natural rights of any man, and he could not, therefore, vote for depriving this portion of citizens of the right of voting.

Mr. Manahan could not vote for depriving men of their right of suffrage unless also relieved from taxation; he had always heard and believed that taxation and representation should go together.

Mr. Randall spoke for some time in favor of the amendment, after which the question was taken on the amendment, and it was lost.

Mr. Bevans introduced an amendment to prohibit the right of suffrage to those who had resided in the state six years and neglected to become citizens of the United States.

The question elicited considerable discussion, in which Messrs. Bevans, Moses M. Strong, Ryan, and Harkin participated.

The question was taken on the amendment, and it was lost.

The committee then, on motion, rose, reported progress, and asked leave to sit again.

The convention then adjourned.—*Express*, Oct. 27, 1846.

Mr. Bevans moved to add to the section the following: "*Provided*, That no persons who are not citizens of the United States, and who have resided six years within the same, having neglected to become citizens thereof according to the laws of Congress, shall be entitled to vote at any election in this state until they become naturalized citizens according to the laws of the United States."

Mr. B. said he thought this amendment would tend to improve the article. It involved the question whether foreigners who had become voters should afterwards be deprived of that privilege; whether those who had once enjoyed this right and privilege should be again deprived of it. There were many in the country who did not mean to become citizens of the United States, who might, notwithstanding, be able to vote under the article as it there stood. He was willing to extend the right of suffrage to all who owed allegiance to the government, who could be convicted of treason, but he could not extend it farther than that. No one would contend that the oath which is provided for in this article will render a man liable for treason to the United States. The amendment ought to be passed, as it would tend to induce foreigners to become citizens of the United States, that they may enjoy the same benefit in other states should they happen to remove. It ought to pass that the government may have a hold upon them, and he doubted much

whether this state could pass an act which would allow a man to be punished for treason. The state is not a sovereign to which a foreigner can announce his allegiance and thereby be clear from the allegiance he owes to his native country. He would not oppose but promote emigration to the country from abroad, but at the same time he would guard that emigration. The time had been when a state had the power of naturalizing foreigners, but now that power was conferred alone on Congress and the United States. He put it on this ground then: If a man will not show that he was disposed to become a citizen of the United States, to owe allegiance to the government which protects him, he ought not to vote. He was far from desiring to restrict the right of voting to none but American born citizens; he knew no difference between the native and naturalized citizen. Hostility to the foreigners did not influence him in offering the amendment; on the contrary he believed every good foreigner would agree with him that the principle was right, and could see no objection to it.

Moses M. Strong inquired of Mr. Bevans if this was all the amendments he had—if the amendment he had heretofore offered to allow none but citizens to vote had finally dwindled down to this proposition—or was this attempted to be thrown in and taken if the larger one could not succeed?

Mr. Bevans could not tell what was in the future.

Then, said Mr. S., I suppose we are to have that amendment too. He said he did not think that the citizenship of the elector had anything to do with voting. This was a difference not commonly taken and understood by those who talk on this subject. A man may be a citizen and not be a voter, and so he may be a voter and not be a citizen of the state or of the United States. The power to make foreigners citizens of the United States belongs to the United States; the power to prescribe the qualifications of electors has been lodged in the states, plainly showing that they are distinct powers. The convention then have full authority to act on this subject according to the Constitution of the United States, and they alone could and must determine the question. The amendment admits the right, the propriety of allowing foreigners to vote for six years, but not after-

wards unless they are fully naturalized. And what reason is given by the gentleman? Why they may be guilty of treason and ought to be punished. If it were a good argument after the six years, it would be no less good before, but the fact was it was never good and cannot be.

Mr. Harkin did not think the amendment any amendment at all. It could not be supposed possible that any man who had suffered and escaped from the iron oppressions of Europe would live on our rich prairies for six years and not become a citizen of the country. As for treason—shades of Montgomery and departed heroes! Did men think that traitors and treason would come from the country of Lafayette, of Montgomery, and Steuben? When necessity required, he and other natives of the same soil would again take up and wield the sanctified shillalah in defense of their adopted country.

Mr. Huebschmann had thought some such provision as that now proposed would be proper, but he could not on reflection believe it could be carried out in practice on just and equitable principles. There may be some unavoidable cause that will prevent a man from being naturalized at the end of six years, and which ought not to hinder him from voting. On this account he could not support it.

Mr. Ryan agreed with his friends, Messrs. Harkin, Strong, and Huebschmann, and gave several examples of the difficulty of procuring naturalization.

The motion to amend was lost, and the committee rising, the convention adjourned].—*Argus*, Oct. 27, 1846.