

or all of the gentlemen who spoke on this question. The bill was supported by Messrs. Wells, Strong, Collins, Lovell, and Holmes, and opposed by Messrs. Clark, Palmer, and Singer.)—*Express*, Feb. 9, 1847.

SPEECH OF MARSHALL M. STRONG, FEBRUARY 5, 1847

Mr. President: It is admitted on all sides that this bill is the most important measure of the session. A greater number of the people have asked its passage by petition than that of any other law, and a deep interest is felt in the subject all over the territory. Let us treat it, then, with all that candor, and forbearance, and sincere desire to arrive at the truth, which has thus far so much distinguished the deliberations of this body; for by so doing we shall secure to ourselves the consciousness of having done our duty, which is the best shield against all the criminations of calumny. A great variety of topics may be with propriety touched upon in this discussion, upon some of which I have reflected much and felt deeply. In my remarks I shall condense my thoughts as much as possible and avoid repetition. I bespeak the favorable attention of the members and if I pursue the course which I have marked out I doubt not it will be cheerfully given.

The bill under consideration provides that in case the constitution now before the people shall not be adopted by them, then a new convention consisting of fifty-two members shall meet in June next for the purpose of amending it. It is unnecessary to refer to the details of the bill, for if there are any here who will vote against it they have the manliness to confine their opposition to its main object.

If the constitution is adopted, this law will have no force and will do no injury. If it is not adopted, this law will prevent our being delayed from coming into the Union for one year. The people by an overwhelming majority have voted that it is time for Wisconsin to be a state. We are the representatives of the people, and no one of us would or ought to attempt to thwart their will. Those then who think the constitution will be rejected will of course vote for this bill. Those who have doubts whether it will be adopted or not will vote for it because they would run no risk upon such a subject. Is there anyone here of so sanguine a temperament that he can say that he has no doubt but that the constitution will be adopted, and say it, too, not for the purpose of effect upon others, but with a full consciousness of its truth in his own bosom? It can-

not be. The minds of very many people are still unfixed upon the subject. The late convention, after having been wholly absorbed in the subject for ten weeks, thought it right that the people, having their ordinary avocations to attend to all the while, should have four months to make up their minds, and can we now say that they have decided the question in six weeks?

But even if one had no doubt upon the adoption of the constitution, it is his duty, in my opinion, to vote for this measure. Indeed, the original law calling a convention ought to have provided for another in case the constitution was rejected. The constitution should stand or fall upon its own merits, and we ought not to say to the people that unless you adopt this you shall not become a state for another year—you shall vote under duress—we will compel you to adopt this one or we will punish you. Suppose the late convention had had the power to provide for another in case of the rejection of the constitution. Would any member of it [have] dared to vote against such a provision? Are not we now placed in as delicate and responsible a position as they would have been, especially after we have seen such an expression of public opinion? The only objection which I have heard made to the passage of this law is that it will prevent the adoption of the constitution. The very objection admits that without extraneous considerations the constitution would be rejected. Now it is of the first importance that this instrument should give general satisfaction or at least suit the majority. But if it should not, and the minority compel enough to vote for it by such means as the refusal to pass this bill to have it adopted, then the minority rules the majority—we have no longer a people's government—and the fundamental principle of our government is violated in its very organization. But, sir, it will not so operate, in my opinion, and the people will be so indignant at any attempt to coerce them on so sacred a measure that many, very many, who were hesitating would vote against it for this very reason. Are the people to be persecuted and punished because they honestly believe that it is not for the best interests of the country to vote for it? It cannot be. We shall not undertake to carry measures with so high a hand.

It is very observable that men's opinions as to the result of the vote of the people upon this instrument are very much influenced by their own views of its merits. It will be proper, then, to discuss briefly those parts of it to which the greatest objections have been made. But before doing so it seems necessary to notice some preliminary matters.



MARSHALL MASON STRONG

From a photograph supplied by courtesy of Ullman Strong

Having been a member of the convention, I may be excused for speaking briefly of my own course. During the progress of the convention several measures passed which I did not like. Still I hoped, as did every other member, that after we had once gone through with our work we should at the close make a thorough revision and strike out or greatly modify those parts which were most objectionable. But when I saw that this hope was vain, and other measures yet more obnoxious were adopted, I resigned and returned home. And when, afterwards, I saw that many of the members of the convention and some of the presses in the territory had recommended the adoption of the constitution, and when I thought of the expense of another convention, the delay of our admission into the Union, the uncertainty of obtaining a better constitution—for I had been told that those measures which seemed to be most injurious were very popular—I hesitated. But when I found that those same measures were received by the people generally with utter condemnation, and it was suggested that a convention consisting of but few in number could be called at a small expense to amend the present constitution, with the moral certainty of greatly improving it, and without any delay to our becoming a state, the path of duty seemed plain and bright. I could not have voted for the constitution without many misgivings and compunctions, but I can oppose it with my whole soul.

I would not speak disrespectfully of the late convention, or of any of its members, but it labored under many difficulties, which all saw and lamented.

It was too numerous. Many writers have observed that large bodies of people collected together are much more excitable than smaller ones. The emotions and passions of men seem to be as it were contagious. It was often remarked in our session that, if one or two men became excited, the excitement extended over the whole body. The majority of the articles which were adopted were passed under the previous question, which precluded all amendment or modification, and members were compelled to vote for them as they were or have nothing at all to say upon the subject. Business progressed very slowly. When two months of the session had elapsed, the utmost limit to which any of us thought it would extend, much remained to be done. Thus many parts of the constitution were adopted without any calm discussion or deliberation.

There were too many standing committees. I voted for the number adopted, not foreseeing the evils we afterwards experienced. Each committee was necessarily small in numbers, contained but

comparatively little talent, had not the opinion of the convention represented by its members, and its report was too apt to be the mere individual opinion of the chairman. When an article was once reported, it was often difficult to change it, for sustaining the report was sometimes considered the same thing as sustaining the chairman. Under this feeling one article now in the constitution passed through all its stages without the slightest amendment, although I doubt not that a large majority were entirely opposed to its provisions. Owing to the number of the committees, too much was reported to the convention, and it occupied a great portion of its time to reject the surplusage.

It is well known that at an early day there arose two factions in the Democratic party, which continued opposed to each other throughout the session. I allude to the fact for the sake of showing its effects, without speculating upon its causes or imputing blame to anyone. This state of things produced suspicion, jealousy, hostility, and every other emotion which would most unfit men's minds for making constitutional law.

The convention was unfortunately constituted in another respect, which I can best show by an illustration: One may have four horses, each one of which may be excellent, yet no two of them will work well together. The convention, although it contained many worthy and talented members, did not work well as a body. No blame, then, is necessarily to be imputed to the individual members of that body because their work is imperfect, since they labored under so many adverse circumstances beyond their control.

But it is time to come to the constitution itself, and I will first speak of the section on the rights of married women. And here let me premise what will also be applicable to other parts of the discussion, that there is no doctrine, however erroneous, in support of which plausible arguments may not be urged. Upon all subjects of a moral or political nature, if we wish to arrive at correct conclusions, we must endeavor to comprehend the subject well and strike the balance of truth. Especially is that the case with laws. Every law sometimes produces evil. The passenger who goes a voyage upon a ship apparently staunch and well-manned may be drowned by reason of unseaworthiness and thus lose his life without any fault of his but by the operation of a law of nature. By another law of nature all mankind must die. It seems to operate very hardly at times, and perhaps some legislature, with its limited knowledge, if it had the power, might modify it; but Deity is wiser than we are.

Those who have seen one or two great evils, apparently caused by our present laws, and have not observed the thousand beneficial influences which those laws are continually and silently exerting upon every department of society may undertake to remedy those evils, and by so doing cause others of a tenfold greater magnitude. Such I think was the cause of the adoption of this section, and such I think will be its effect. Let us anticipate somewhat its operation, and see whether its good or evil consequences will predominate.

If the wife is to hold a separate property in her own name she must have the means of protecting it. If it is trespassed upon, she must be able to bring suits in her own name. She will then be sole plaintiff. If she can sue she must also be liable to be sued. If she is to have the power of keeping her property separate from that of her husband and subject in no manner to his control, she must have the power of suing him as well as others. If he interferes with it she can sue him in trespass and confine him in jail on execution, for imprisonment is allowed in actions of tort. She will have the power of selling her property, exchanging it, buying other property, for it is an essential requisite of property that one can do what one pleases with it, and it is contrary to the policy of laws to tie it up and prevent its being disposed of. She can then contract and be contracted with, execute bonds, mortgages, deeds, notes, and all other instruments. She can form a partnership in business with her husband, under the name of "John Doe & Wife," or "Mary Doe & Husband," or they may add another and have it "John Doe, Wife, & Tom Nokes," or she may form a partnership with Nokes alone, or with others added, or there may be dormant partners, and it will be none the husband's business who are her partners or paramours. She may engage in any kind of business, at any hour or place, and with anybody. The Bible says that woman shall leave father and mother and cleave unto her husband, and they twain shall be one flesh. The constitution says that they twain shall be as separate and distinct persons as any other two individuals in the community, or as any laws can make them. Tell me what more can be done by laws to effect this object. Woman is to be transferred from her appropriate domestic sphere, taken away from her children, and cast out rudely into the strifes and turmoil of the world, there to have her finer sensibilities blunted, the ruling motives of her mind changed, and every trait of loveliness blotted out. When the husband returns at night, perplexed with care, dejected with anxiety, depressed in hope, will he find, think you, the same nice and delicate appreciation of his feelings he has heretofore found? Will her welfare,

and feelings, and thoughts, and interests be all wrapped up in his happiness, as they now are? Will he, whatever friends may have deserted him, whatever disappointments may have befallen him, however cold the world may have turned upon him, always seek shelter in the bosom of his family with the same confidence of soothing sympathy as heretofore? Will the word "home" sound as sweetly? Where will be its guardian angel? O, sir, the effect of this law upon the husband, upon the wife, upon the children, and upon all the domestic relations will be most fearful. I am well aware that its evils will not appear at first, that they will develop themselves not at once, but gradually, for it takes time for communities to change their habits and customs, but its direct and inevitable tendency is to produce them, and in the course of time they will have their full and devilish operation.

We should not disregard all experience and authority upon this subject, and we have it on both sides of the question. This provision is substantially copied from the civil law. It exists in France, and I will merely say that more than one-fourth of the children annually born in Paris are illegitimate. Other causes may operate to produce so great licentiousness, and do, undoubtedly; but this I apprehend is the most potent. On the other hand, there is no such purity of morals in this respect as in our own country. Woman is treated almost universally with delicacy and respect. She can travel in our public conveyances hundreds of miles, alone and amongst strangers, without receiving the slightest insult; and so remarkable is this that English travelers through our country, and those, too, who are disposed to sneer and carp at all our institutions, manners, and customs, have uniformly spoken of this beautiful trait with the highest admiration.

That great frauds will be perpetrated under this section every one admits. I shall not undertake to run out the law in this respect. Everyone for himself can think of divers ways where the property of the husband in failing circumstances will find its way into the ownership of the wife. He will become a sort of man about the house, a convenience, degraded in his own and in the eyes of his partner and of the world. It is fabled that once upon a time a rooster crowed as follows: "Women rule here," and another one at an adjoining house replied "So they do here," while still another one far off chimed in by saying, "So they do everywhere"; and this interpretation will become literally true wherever women fall under the operation of this law.

This section will change entirely our laws of pleading, practice, evidence, domestic relations, and indeed throw confusion into every branch. It is a piece of civil law engrafted upon the common law, with the whole of which it is utterly inconsistent. It strikes deep among first principles. We have no precedents or decisions to guide us in the matter. No man can ascertain how to transact his business correctly, take what counsel he may, for it perplexes all lawyers; and I predict that if the constitution is adopted, more questions of constitutional law will be taken to the supreme court on this and the exemption section than upon all the rest of the instrument.

There have been hard cases, undoubtedly, where the wife's property has been taken for the husband's debts, although I have never heard of one such in the territory; but in nine cases out of ten this section would not remedy the evil, for a confiding wife, being overpersuaded by a persevering husband, would place her property under his control. In order to cure these evils, which are of rare occurrence and in most cases not chargeable to the laws, the husband is to be degraded, the wife unsexed, the children uncared for, the creditor defrauded, and the laws confounded.

The twin subject to the one we have been considering is the section on exemptions from sales on execution. *Par nobile fratrum!* They were adopted at one and the same time, in the same article, because, as I suppose, they have such a strong resemblance to each other in the inducements they hold out for frauds, their baneful influence on business, the false position in which they place women, and in the confusion which they will create in the laws. On a former occasion I stated cursorily my opinions upon this section, but find that the more the subjects are considered the worse they appear. I shall mention only such additional objections as have since been brought to my notice.

It is the opinion of one of the judges of the supreme court and I am told of several good lawyers that the adoption of this section repeals all laws and prevents all legislation upon the subject of exemptions. One of the rules for the construction of constitutions laid down by Judge Story is that the adoption of one provision includes all others upon the same subject. It is argued that if we can change or modify the exemption article by legislation, that then we can do the same to every other part of the constitution. Others think that this exclusion would be confined solely to exemptions on real estate. Others, again, think that the constitution would exempt all articles now exempt by law, but the law upon this subject

could never be changed. Still others, that the legislature will have the same control over the subject, with the limitation as to the quantity and value of real estate that they had before. Should the judge's opinion be correct, then not a bed, not an article of wearing apparel, or any other personal property would be exempt from execution. But I am the more inclined to think, especially since we are to have an elective judiciary, that the latter opinion will prevail and that this section will be only the first step to future and still greater exemptions. Adopt this constitution, and future legislatures becoming still more and more progressive will boldly carry out the principles too plainly shadowed forth in these provisions until eventually we shall arrive at the limit of all progress.

The real estate exempted by this section may be owned by a male or female, a married or an unmarried person. Where the wife has a separate property, can the husband and wife each have one thousand dollars worth of real estate exempt? Where a married man owns only forty acres or a village lot worth less than one thousand dollars and owes no debts and does not wish it to be exempt, can he alienate it without the consent of his wife? Suppose one owning real estate exempt should exchange it for other real estate, and there should be a judgment against him at the time. Would not the tract last acquired be subject to the judgment, as the debtor could not have two selections at the same time? Or suppose he should sell it for any other property. Would not that property be liable for his debts?

The avowed object of this section is to protect the wife and children. When the husband dies, it is made the duty of the judge of probate by law to sell his real estate to pay his debts, if there is not personal property sufficient for that purpose. Thus the wife and children will be protected while the husband is alive to support them, but the moment he dies and they are left helpless, the property before exempt will be sold to pay his debts.

Those who support this section must assume two principles to be correct: First, that man is unable to take care of himself, and it is necessary that the law should protect him; and second, that woman is more capable of managing pecuniary matters than man, or even the constitution, for it protects the property of the husband until she says to the contrary. She has a supervisory power all the while and can veto her husband's arrangements or not as she deems most advisable. Why should not the same principle extend to articles of personal property which are exempt, and the statutes be changed accordingly? Suppose some mechanic, having his all of fortune

invested in a house and lot in a village, worth one thousand dollars, wishes to sell out, in order to increase his stock in trade, or because his business is poor and he wishes to remove to another town. Having a most favorable opportunity to sell, he contracts his place, and going home, announces with great satisfaction to his wife what he is about to do, whereupon she says, "No. I like my neighbors here, and I shall not go away. Mrs. Caudle and myself have talked this matter over, and we have determined to stay here. Woman's rights have been greatly infringed upon ever since Adam's time, until the Fourierites in Paris and Fanny Wright investigated this matter." But the husband remonstrates, and says, "At the time of our marriage you promised to obey me, and St. Paul says, 'Wives, be subject to your husbands in all things.'" To which she replies that these are antiquated notions, entirely unfitted for this progressive age. Whereupon the man leaves immediately for California, Oregon, or some other distant region, where he hopes never to hear from his dear again. Is this constitutional, or some other kind of government?

If one sells another a horse on a month's credit, and the purchaser cannot pay for it, he ought at least to be willing to return the horse. If one lends another a hundred dollars with which he buys property and he is finally unable to pay, he ought certainly to give up the property bought with his creditor's money. The general rule is that the debtor's property shall be liable to pay his debts, and it is just. The exemption law is an exception to this rule, and wearing apparel, beds, a certain portion of furniture and other property are exempted for the sake of decency and humanity, and because they would be of little worth to the creditor. But this section exempts more productive capital than four-fifths of the voters of the territory severally own, and by what rule can it be defended? Why limit it to one thousand dollars? Why to one kind of capital only?

Until nearly the close of the convention no part of their labors met with so much opposition from the people as the sixth section of the bank article. I voted for that section because I thought it abstractly right then, and I think so still, all the while, however, doubting the expediency of placing it in the constitution. As soon as I had so voted I wrote to several of my constituents particularly on this subject, saying if it was seriously objectionable to the people, I would do all that I could to get it struck out; yet they uniformly wrote me not to change my vote. I doubted, because the subject was entirely a new one—it had never been discussed before

the people—the provision was not contained in the original report of the committee—it came upon us unexpectedly by an amendment offered in the convention—and it was not necessary to have it in the constitution. A constitution should constitute or organize the great departments of government, and prescribe their powers and duties, and fix such limitations to them as may be necessary. This section was to act only upon individuals, and the object might as well be left to the legislature or accomplished by public opinion, as it has been done in the western part of the territory. This provision, too, is one of that character which depends entirely upon public opinion for its efficacy. If A, B, and C will take foreign bills, who else will know it, and how will your law reach them? If D is opposed to taking them, but A owes him one hundred dollars, for which he can get nothing but Eastern bills, and he owes B the same amount, he will take the bills and pay his debt. Confidently hoping at that time that we should frame a good constitution, I did not wish to endanger its adoption by inserting this provision and thus lose all by grasping too much. Entertaining these views, when I found that public opinion came pouring in upon us from all quarters against this section, I should have voted to strike it out, my former vote and my correspondents to the contrary notwithstanding, and such was known to be my determination for several of the last weeks of the session.

The large number of which the house of representatives is to consist is, to my mind, a serious defect, but I must not dwell upon this subject. Ten members are apportioned to Racine County, and I am confident that her citizens would have been better pleased with half the number. The great additional expense of so large a body will be very burdensome upon the people of our new state, who have so many uses and calls for their money. Suppose it had been provided that the house of representatives should consist of thirty-nine members—a number equal to both houses of our present legislature—instead of seventy nine. The mileage of the forty extra members upon the same basis, I estimate the expenses of the new convention would be seven hundred and four dollars. If the session should continue forty days and the first two or three sessions must be much longer, their per diem for that time would be thirty-two hundred dollars. If owing to their great number they protracted the session ten days longer than it would have been with a smaller number and they would cause greater delay than that, then the per diem of all the members of both houses, which is one hundred, should be added, making two thousand dollars. Now these certain

additional expenses would amount to sixty-four hundred and four dollars, besides which there would be other expenses for printing, postage, etc. This large number was very unpopular in the convention, but it was adopted for the purpose of bringing representation nearer home to the new counties. But I cannot see how those counties will be benefited by it. They will have no greater representation in proportion to the whole number than they would in a smaller body. The local legislation which they may need would not suffer without an immediate representative. I do not think there has a local act been passed for Racine, Walworth, or Rock County, which has not passed almost without opposition, and which would not have passed if those counties had had no representative in the legislature. The same may be said of other counties. It is the general laws in which we are all most deeply interested, and these can be far better made by a less numerous legislature.

Another master evil of the constitution is the provision for an elective judiciary to hold their offices for five years. The manner of selection and the term of office, taken separately, are the worst features which could be incorporated into any judiciary system, and taken together they will operate with tenfold power of evil. No man, however experienced in life, however profound in thought, however farseeing into futurity, or however exuberant in imagination, can too much magnify the importance of a good judiciary. It is the very bulwark and safeguard of our whole frame of government. Of what consequence is it to have good laws, if they are incorrectly expounded or improperly administered? The judge has far greater power than any other officer in the government; and the property and the reputation and the liberty and the life of every citizen may be subject to his decision. Our courts are the fountains of justice, and if they are corrupted, if injustice can prevail in the land with impunity, or if those who seek redress for wrongs are hampered and delayed in their search, then our institutions, instead of being beloved, will become odious to the people and their best and dearest interests will be sacrificed. These considerations, the correctness of which none deny, should induce all persons to approach this subject with a wise diffidence in their own opinions and with a determination not to be governed by first impressions, but to give to the subject that calm and deep consideration which its importance merits. Yet a majority of the convention, having conceived that an elective judiciary was popular, that it was an experiment which must be tried, although many of them said that they had not much faith in it themselves, their minds were ef-

fectually closed against all consideration of the subject, and hence this provision was incorporated into the constitution. The fact of its being there is no evidence to my mind of the opinion of the members as to the merits of the question, but only as to their opinion of its popularity. The assumed popularity, both of this provision and of several others, I shall notice hereafter. But I will now briefly state some of the reasons which convince me that an elective judiciary will not operate well.

First. The electors cannot have the means of knowing who of all the persons within their judicial district will make the best judge. Of twenty-four hundred voters in Racine County, what one of them knows who in Walworth County would make the best judge, or who in Rock County, or who in Green County? No one of them, sir, has any opinion on the subject. From my long residence in the county, from the nature of my business, from my public avocations, I think I have had as good means of ascertaining as any of them; yet if the selection was to be made from any one of those counties, I could not now make it. Such is not the case with political offices. Members of the legislature are generally elected from the counties in which they reside, and have generally held other offices, such as magistrates, supervisors, or have become otherwise generally known. Candidates for Congress or state offices have generally either been members of the legislature, or have distinguished themselves in some public capacity, or they can make themselves known by popular addresses. But frequently the person who would make the best judge is the very one who is the least known to the community; for it is by no means the case that successful lawyers will always make good judges. On the other hand, the governor knows long beforehand that he is to make the appointment; he has the time and means to inquire into the qualifications of those proposed for the office; he can ascertain the opinions of all those who have had the greatest opportunities for judging of those qualifications; and it will be a part of his official duty for which he will be paid and held responsible to make the best selection.

Second. The judges, although elected by the people, will not be selected by them. They will be nominated by district conventions. You will have caucuses where the members of one party will choose delegates to a county convention which will send delegates to a district convention. Those who make the nominations will be the representatives of one party of the people in the second remove, while the governor is the direct representative of the whole people.

Now is it not notorious in our system of politics that the nomination of the dominant party in nine cases out of ten decides the election, and does not then the convention virtually select the judge, and not the people? True, the people at the polls will have the choice between two or three nominees, but it may be a sort of Hobson's choice after all. If all those who had marked qualifications for the office could be candidates, and the electors had the opportunities of ascertaining those qualifications, and there were no party or other sinister influence to operate upon their minds, the people would most certainly select the best man, and I should have the utmost confidence in their choice. If it is said that this objection applies equally to the election of [to] political offices, there are various reasons which destroy its weight, and besides there are paramount considerations why those officers should be elected by the people.

Third. In politics we often hear the maxim, "Principles and not men." Suppose a person to be nominated for the legislature who is utterly unfit for the station. Many party men would vote for him because his vote in the legislature might change from one party to the other the political power of the state, and, if a United States senator was to be elected, of the United States. It is this consideration which causes political parties to sustain their candidates so unanimously, and sometimes, too, to overlook their best men and nominate those who will be available, although they may be merely quiet, inoffensive men, without any force of character. Now in the selection of judges the maxim should be directly the reverse, "Men and not principles," no matter what the judge's political principles are, and most certainly no person should ever be able to discover what they are from anything he does officially. A party cannot gain anything by electing a judge; it propagates no political principles; it gives no political power; and it effects nothing politically in any manner.

Fourth. The more numerous any body of men are, the less responsibility there is upon the individuals composing it; and political conventions whose members, who are elected for a day, and for a particular purpose, without any of the forms of law, and frequently with objects aside from the main one are certainly not the most responsible bodies in the world. A variety of considerations operate upon the minds of the members of such conventions, and men are frequently nominated and elected to office who without nomination could not have received one-sixth of the votes of the people. But the only consideration which should operate upon our minds in deciding this question is what method will secure the best judges.

On the other hand, if the selection is made by appointment, the sole responsibility will rest upon the governor; his fortune and reputation will depend upon the proper discharge of that duty; and his choice will be approved by two-thirds or three-fourths, if you please, of the senate, the highest body in the state.

Fifth. If you elect your judges at the general election, the choice will probably be decided upon political considerations. Now just so far as these considerations have any weight they will do mischief. Therefore to avoid this evil the convention provided that there should be a special election held for judges. This may lessen the evil somewhat but it will still exist in great force besides being subject to another great objection. How many men will there be in the community who merely for the purpose of having a good judge will give their time and money to attend as delegates first to the county and then to the district convention? Will not an active, sagacious man who is aspiring to the office be able to secure in many places the election of delegates who will favor his views? Political considerations will affect the nominations where the great evil is to be found as much in the special as in the general election. If you elect the judges by general ticket throughout the territory, the nomination of the dominant party will be equivalent to an election. If you elect in single districts, you offer greater opportunities for intrigue and you have not the talent of the whole state to select from.

Sixth. But the effect of elections upon the judge himself, however good he may be at first, will be most deplorable. I shall dwell very briefly upon this point, for it has already been most felicitously demonstrated by my colleague, Mr. Ryan, in a speech which has been published and to which I would refer those who are desirous of fully understanding this subject. Politicians are governed very much by motives of expediency and policy, and with propriety, too, in many cases, and are continually having reference to public opinion, as they ought to; but it is a severe ordeal for stability and integrity, and few pass through it unsoiled. Now this would be the worst feature in the character of a judge, and elections and short terms will inevitably produce it. O, who can bear the thought of having a man in that sacred office who shall look over a case, and under it, and both sides, and all around it, to see what is politic or popular and put law and justice aside? Suppose a new election is approaching and the most influential politician in his district has an important suit against some humble citizen, in which his feelings are deeply enlisted, would not the judge, having his feelings and

pride enlisted in a reflection, thinking that his reputation and the fortune of himself and family were at stake upon it, and knowing that there are hundreds of ways in which he can favor one party or the other without its being observed except to the practiced eye, would he not, then, I say, swerve from the path of duty? Would not the same influences be incessantly operating in a greater or less degree? To think otherwise seems to me like being blind to all observation and experience.

Seventh. The short term of office without any provision for retaining the good judges is very objectionable. The business of a judge is a separate and distinct calling of itself, requiring practice and training as much as any other occupation, and the more experience one has in it the better judge he will be, even up to the age of eighty-six, at which Chief Justice Marshall died, if he should retain his faculties so long. No man can be a good farmer, or a good mechanic, or a good merchant, or a good anything else, without practice, and the more practice he has the better qualified he is for his particular pursuit; and how forcibly this rule applies to the difficult, complicated, and responsible duties of a judge, who can never transact his business by proxy, and who is often called upon in the progress of a trial to decide the profoundest questions of law, where great interests are depending, without any time for the consultation of books, or of friends, or even for reflection. Now just when your judge begins to be qualified, his office expires, and a change of politics in his district or an aspiring man in his own party may throw him out of office and thus deprive the community of all the benefits of his judicial education. Rotation in office, which works well in some cases, would be a miserable principle here. The constitution not only makes no provision for continuing good judges in office, but it turns out all the judges at once, thus leaving the bench entirely destitute of judicial experience.

Eighth. It may be a great heresy in these latter days, but I confess that I have still some respect for the experience and wisdom of the past. In the science of government theories are less to be relied upon than anywhere else, and those which have come from the wisest men and from the highest authority have often been refuted by experience. Judges have been appointed in the United States government and by every state in the Union except Mississippi, from the commencement of our history to the present time. Compare all those judges who have been appointed with the high political officers who have been elected and you will find them as a body far superior both in talent and in integrity. No lawyer, no

judge, no statesman of any note has recommended the elective system. As to the operation of it in Mississippi we know nothing, except by a letter from one Judge Quitman, who is now engaged in the Mexican war. I know nothing of Mississippi, except I have heard of Vicksburg. Now, sir, I object to adopting principles of constitutional law upon the same reasons that a fashionable lady selects her dresses, because they are the latest and newest cut; and in those states where I find the most intelligent and moral people, there I expect to find the best laws.

But New York has adopted the elective system—and therefore Wisconsin must—adopted, but not tried it, and that, too, contrary to the opinion of her best men. There were reasons, however, operating in that state, which do not apply here. Her old judicial system was defective in many respects. The court of common pleas, consisting of five judges in each county, who were paid only three dollars per day while actually employed, was a burlesque. The political court of errors, into which, if any suiter happened to fall, he was most surely ruined unless he possessed great wealth, was equally absurd. The supreme court and the court of chancery, although they had able and industrious judges, were three years behind in their business, and no labor, however arduous, could bring it up. The practice, proceedings, and pleadings in all her courts were verbose and expensive beyond endurance. On the other hand, the appointing power of the governor in that great and wealthy state was so vast that it corrupted the whole people. He had the appointment of some four hundred judges, besides surrogates, masters in chancery, inspectors of various kinds, and divers other offices, many of which were very lucrative. The citizens, suffering intensely under these evils, have gone to the other extreme, and rushed madly, as I think, into the elective judiciary. None of these reasons apply here. We have a good judicial system, a simple practice—our courts are able to dispatch promptly all the business which comes before them—and the patronage of the governor is not worth mentioning. If he appointed the judges, no governor after the first would appoint more than one and the difference between appointing one judge and hundreds takes away the whole argument, for the theory of our government is to divide its powers giving to each officer some and to none a great deal.

Again, it is said that formerly the same objections were made to the election of justices of the peace, yet in practice they did not prove well founded. The analogy sought does not apply. Justices are elected in small districts, where each voter can become well

acquainted with the candidate; party politics cannot be brought to bear on elections so successfully in small districts as in larger; the office in most cases is unprofitable and undesirable, and the incumbent cares little whether he retains it or not; the questions to be decided by a justice are for the most part simple and unimportant, and if he errs, his decision can be corrected by appeal, while such is not the case with the decisions of the judges of the supreme court. Although the governor might not make so good selections of justices, owing to the number of offices to be filled, scattered through every town in the state and their comparative unimportance, as the voters of the vicinage, yet he would make a far better choice of a single important officer than could a vast number of voters, who could not have any means of acquaintance with the candidate. Besides, it is undeniable that a desire for popularity does sometimes affect the decisions of justices.

The only argument in favor of the elective principle which I have ever heard is contained in the following question, viz., "Is it not more democratic, and do you distrust the capacities of the people?" In the abstract sense of the word it is more democratic, but not in the American sense of it. It would be more democratic for the people of the whole nation to meet together in one vast body and make their laws, as was done in the ancient Polish diets. It would be more democratic that every decision made by the people or their agents should be unanimous, which was also practiced by the Polish diets; and in order to carry out the principle the majority frequently killed off the minority. But this Polish democracy necessarily ran into anarchy and destroyed that nation, once the greatest and most powerful in Europe. It would be more abstractly democratic for the whole people to assemble together and decide all lawsuits, as was done by the Athenians after they destroyed the court of the Areopagus. This abstractly democratic tribunal banished Aristides because he was just, sentenced Socrates to death because he was the wisest philosopher and most exemplary man of ancient times. By the decisions of this court virtue became crime. But this Athenian democracy destroyed the most glorious city mentioned in history. Now shall we rush headlong down to destruction like the herd of swine possessed of legions of devils? Shall our government fall by the means which its enemies are predicting? The theory of our government is this: The people are capable of and will choose that form of government which is best for their own interests. The only question for us to decide is what course will secure to us the best judiciary? But to say that one method is better than an-

other and that the people will not adopt the better one is saying that so far our system of government is a failure. What good is to be obtained by this elective judiciary? What principle promoted? What party benefited? What evil remedied? How is the happiness and prosperity of the people to be advanced by it? Then why cast all the trouble and expense and responsibility of this election upon them?

It was expected by every member of the convention that at the close of its session the constitution would be most carefully and thoroughly revised. A standing committee was early appointed for this purpose. Acting under this expectation, many amendments and sections were adopted, which it was known were not carefully drawn, the members voting for the substance of the provision. But the session was protracted so much longer than was expected and the members became so impatient to adjourn that scarcely any revision could be made, and thus the constitution was left exceedingly imperfect in this respect. Now if there is any instrument where the nicest precision of language and the most methodical and accurate arrangement is required it is a constitution. Every word in it should be the most fit of all others in the language to convey distinctly and definitely the very shade of meaning intended. A single wrong word or a sentence badly arranged may cause many a lawsuit, and surely if there is anything which ought to be perfectly intelligible to the people, it is the fundamental law of the land.

Notwithstanding we should bring upon ourselves these great evils by adopting the constitution, yet the supporters of that instrument say that still greater evils are to be feared from its rejection. I shall very cursorily notice all the prominent reasons I have heard in favor of voting for the constitution.

First. The expense of a new convention. I have ascertained from the secretary of the territory that the average mileage of the present members of the legislature at ten cents per mile is \$17.60. Supposing the average mileage of the fifty-two members of the convention to be the same, their total mileage would be \$915.20. The second session called to revise the constitution of the state of Iowa continued less than two weeks. But suppose their session should extend to twenty days, then the total per diem pay of the members would be \$2,080. There will be no need of standing committees, and consequently little printing to be done. The constitution already framed can be acted upon at once, and such amendments proposed as public opinion shall have indicated to be necessary. The whole expenses will not exceed, in my opinion, \$6,000. This sum will

not be so great as the unnecessary expense of a numerous legislature for a single year. But, sir, no comparison can be made in dollars and cents with the evils which this instrument will inflict on our now prosperous country.

Second. Rejecting the constitution will delay our admission into the Union. Not at all. The convention will meet in June; the people can vote upon the adoption of the constitution in August, and elect their state officers and members of Congress at the election in October. Our senators and representatives can take their seats in Congress at the opening of the next session. But suppose there should be a delay. Must we rush immediately into the Union, no matter what the constitution contains?

Third. A new convention will not make any better constitution than the one now proposed. There is to my mind a moral certainty that it will. It will be less numerous; it will not be subject to several evils under which the late convention labored, and will have the advantage of its experience, and besides will have a clear indication of public opinion upon the objectionable provisions of the present constitution as to most of which the late convention was entirely deprived. Some fear that a new convention will not restrict the legislature in the contraction of debts, but I see no reason for such fear. Canals are obsolete, and railroads are the only means of internal improvements now considered desirable. It is admitted that states cannot manage railroads and that they must be constructed and carried on by private enterprise. I do not know of a single individual of either political party, who objects to this provision in the constitution. Even in New York where a vast and populous region is interested in the enlargement of the Erie Canal and in the completion of lateral canals the true doctrine has prevailed. But the great fear is that we shall get banks. Sir, I have been as uniformly and as decidedly hostile to incorporated banks as any other man, for proof of which I refer to the legislative journals, and my opinions about them are unchanged. There are so many decided tests of public opinion on this subject that he who will observe cannot mistake them. The citizens of the mining portion of the territory, having suffered terribly by the failure of the Mineral Point Bank and others, are now practically a hard-money people. The north has suffered equally by the Wisconsin Bank. No bank influence would be feared from the newer counties. In my own county there is scarcely a man of either party who is in favor of chartering banks. But the great bugbear is Milwaukee County; and pray what is the public opinion there upon this sub-

ject? Why two years ago the candidates for the legislature could not be elected until they had publicly pledged themselves to vote against all banks; and even the members of the late convention were instructed by the body which nominated them to oppose banks. The political conventions of both parties in almost every county in the territory have passed resolutions against banks, and no such convention of either party has ever passed resolutions in their favor. No other political question has been so much discussed, and upon no other has the decision of public opinion been so unanimous. There is one other reason for a new convention, which I intended to have noticed before. Although many distinguished statesmen—and amongst them Franklin—once thought that legislation might safely be trusted to a single body of men, experience has shown to the contrary, and it is now a settled maxim in the science of government, practiced upon by all civilized nations, that the legislature must be composed of two separate and distinct houses. Where there is but a single body, laws will often be passed in haste under the influence of impulse, excitement, or passion, and the members once committed are loath to change their votes. Do not this maxim and the reasons for it apply with greater force to the making of constitutional law?

Fourth. Some of these objectionable provisions are so impracticable and unpopular that they will not be observed, but remain dead letters in the constitution, and therefore they can vote for it. This is to my mind a most pernicious and dangerous doctrine. All governments must be sustained either by the respect which the governed have for law, or by the physical power of the government. As you decrease the former you must increase the latter, and hence the necessity for all monarchies to keep large standing armies. The people of the United States are emphatically a law-loving and a law-obeying people, and it is by this feeling alone that our government is sustained. Go through the country from one end to the other and you will scarcely ever see the hand or the power of government; and this remarkable feature in our institutions has been often commented upon by travelers from other countries. Clothed in the majesty of the law, the sheriff of the county, elected by your own votes, goes forth unattended and unarmed and takes away the property and the liberty of the proudest and most powerful citizen, and none dare interfere. Shall we blunt this sacred feeling of our citizens and strike at the very principle which supports all our institutions? It is true, and it is most unfortunate, too, that there is now and then a statute which is not regarded, but in

what constitution can there [not] be found a single provision which does not have full and perfect operation? Besides, the constitution itself requires every civil officer to take an oath to support it, and do you expect they will enter upon office with perjury in their hearts? If they neglect this part of their official duty, can you expect that they will perform all other parts of it faithfully?

Fifth. These provisions are so popular that another convention will not change them. This is directly contrary argument to the former. But where is the evidence of this popularity? The large number of the house of representatives was unpopular even in the convention. Nothing was said before the convention met as to the rights of married women, or exemptions, except that the Dane County Whig convention passed a resolution upon the subject which was generally condemned. The sixth section of the bank article was unheard of until it appeared by way of amendment in the convention. The elective judiciary received more discussion, but not such that anyone could tell how the majority thought upon it. When any political principle has been long agitated in the public mind, when both sides of it have been fairly discussed, when it has been made a political test at the elections, then you can tell what popular opinion is in regard to it. But when great questions of fundamental law suddenly arise, affecting all the interests of society and requiring the profoundest investigation, how can anyone say that this or that side is popular? Or suppose that the first impressions of those who had thought some upon these subjects were favorable to these provisions. Is that conclusive evidence of the opinion of the whole people? Or ought those first impressions to be forever adhered to, although further investigation may show them to be erroneous? Or even supposing that public opinion was in favor of these provisions, ought not he who differed with that public opinion and thought it fraught with evil consequences boldly and frankly to express his own and thus appeal to the second sober thought? Is freedom of speech and opinion proscribed? Are the people intolerant? No, sir. The very doubt implied by the question is an insult to them. There are no two leaves upon any tree alike, no two things in the world alike, and no two persons who ever thought precisely alike. Some pretend to think like every person with whom they meet, and express their opinions in the same manner the two old women did in the following dialogue, viz.,

First W.—“What do you think of the Revolutionary War?”

Second W.—“I think pretty much as you do.”

First W.—“Well, so do I.”

Such opinions are very valuable and much respected everywhere. I am satisfied, sir, that the people wish to hear both sides of all these questions, that they desire to arrive at the truth, and so to decide as will best promote their own interest. Should any one of these provisions be submitted to a vote of the people at a town meeting in any town in this territory, and a fair discussion should be had on both sides, I am confident that the vote would be against it. The opinion of the members of the late convention on these subjects, they having had no means of ascertaining what public opinion really was, is of no higher authority than the opinion of any other one hundred and twenty-five men of equal ability, who should happen casually to meet together. Indeed, their votes in some cases were no true index to their own opinions, for many avowedly voted against their better judgment because they supposed by so doing they were acting in accordance with public opinion.

Sixth. The constitution can be easily amended, and these objectionable features will be removed. This reason is directly contradictory to the latter one. Amendments can be made to it by a vote of two-thirds of all the members elected to each house, if they are afterwards sanctioned by a majority of the people who shall vote upon the question. The vote of any member of the legislature who shall be absent on account of sickness or for other cause will be counted against the amendment, and it will require two votes in its favor to balance it. It is thought by many members that this was a more difficult method of amending the constitution than those usually adopted. A large convention has just adopted these provisions; many are urging that they are good and exceedingly popular. When the constitution is once adopted there will be a great reluctance to change it, and can any man entertain a rational hope that the country will be freed from these evils in this manner? Besides, practical difficulties will arise from such a course. Suppose a married woman is holding \$2,000 worth of property under the provision of the constitution, and that section should be struck out by amendment. Who then will own that property? It is the very essence of a constitution that it should be the fixed and stable law of the land, the foundation of all other laws and institutions; and changes in it, even if wisely made, are an evil in and of themselves. How lamentable is it that the supporters of the constitution will be compelled to use this argument all over the territory to familiarize the minds of the people with the idea of frequent changes in the fundamental law; and if they succeed in their argument, we shall have a constitu-

tion as changeable and uncertain as the success of political parties or as the variable opinions of successive legislatures.

Seventh. Unless the constitution is adopted, the Democratic party in the territory is overthrown. Those who use this argument would spare no effort to use the party tie and drill to sustain the constitution. Sir, this is not like a party nomination. If you elect a man to office of inferior qualifications, the evil is temporary and comparatively harmless. But if you adopt a bad constitution, the interests of every citizen will be greatly prejudiced for a long time, and some of the evil consequences will remain forever. If the Democratic party should support this instrument as a party measure, the inevitable consequence will be, no matter what disclaimers are used, that all these repugnant principles are at once incorporated into the Democratic creed. If the constitution should be adopted by such means, the party must stand by these principles, and it will be inevitably defeated at the first and by far the most important election under state government because, although Whigs may vote for the constitution, they will not afterwards vote for Democratic nominations; and if the constitution is rejected, the party is thereby overthrown. But on the other hand, if the party disclaims that it is a party measure then it entirely frees itself from this great responsibility. What man at all acquainted with public opinion in the territory can shut his eyes to the fact that there are many firm, consistent, long-tried, and undoubted Democrats in each county who cannot and will not and ought not to be coerced into its support? How many such are there among the thirty-five hundred petitioners who have asked for the passage of this law? Will you say to them, "Vote for this or you are no Democrats, and we will read you out of the party"? If you do, and could succeed, you will read out far more than enough to lose your power in the territory, and I am not sure but a majority of the party. Hence all the Democrats with whom I have conversed and who have concluded to vote for the constitution are desirous not to make its adoption a party question. But when and where and how did these odious provisions ever become Democratic doctrine? In what state has any one of them ever been made a political test? Nothing ever emanated from any political body on either of these subjects except real estate exemption, which was recommended by the Whig convention of Dane County. In the late convention to form a constitution for New York State a proposition was offered to exempt from execution real estate to the value of six hundred dollars, and in a body consisting of one hundred and thirty-two members there were but eleven votes in its favor.

A Whig, who was formerly a member of the legislature, has annually for three or four years past introduced a bill into the Council containing similar provisions to the section on the rights of married women, which has uniformly been voted down by Democrats. There was a majority of six in the late convention for striking out the said section. The sixth section of the bank article would have been struck out of the constitution had it not been for Whig votes in its favor. When the resolutions were passed in a caucus of the Democratic members of the convention, it was understood by many who signed them, and so publicly stated at the time, that they did not thereby intend to make the adoption of the constitution a party question. Pray give whatever glory there is in originating these measures to the party to which it justly belongs if any party is responsible for it. Sir, if the constitution is to be adopted, and the great evil is to be done to the best interests of the country which I anticipate, I do not wish to see that evil increased by the overthrow of the Democratic party and Democratic principles.

In reflecting upon these various and contradictory arguments which are urged in support of the constitution it is remarkable that none of them touch the merits of the instrument itself. They confess and avoid—they plead an offset—they carry the war into Africa—they imagine great evils to come, which, in my opinion, are entirely imaginary. Their course seems to say, "The less there is said about the constitution, the better." But says one, "These parts of which you complain are a very small part of the constitution." True, but a law may be enacted in five words which will disband society. It is not in the number of words that a law is efficacious for good or for evil, but in their comprehensiveness.

I have observed with pain the evil effect which the support of this constitution has upon the minds of those who have concluded to vote for it. In order to justify themselves they begin immediately to soften down in their own minds its objectionable features—they look upon them with less and less repugnance—and if any of them are warmly attacked they will become their apologists, if not defenders, and thus the whole public mind is to become perverted. Besides, they are everywhere to familiarize the minds of the people with the idea that frequent changes are unobjectionable, and that those provisions of it which are bad can be disregarded, thus attempting to ward off evils by others of a scarcely less magnitude.

These features of the constitution are not only bad of themselves, but they are still more objectionable when we reflect that they will produce other laws still worse. They are seeds of evil which will

produce an hundred fold. We are just about to start in our course as a nation, and it is as important that we have correct principles of government as it is for a young man to commence business for himself with good habits and correct moral principles. Nations have their youth, their forming, fixing period of existence, as well as individuals. If we take the downhill road at first we shall be too apt to follow it with increased velocity. Good or bad constitutions and laws are not only effects but causes. They spring from a good or bad state of society, but afterwards they have a most powerful effect in producing in society the very qualities which they contain themselves.

Adopt this constitution, and we shall have an expensive legislature, which cannot make so good laws as would a less numerous body; we shall have a miserable judiciary; we shall have confusion and uncertainty in every branch of our laws; the respect for law and government will be lessened, and the bonds of society loosened; the sacred influence of the family relation will be impaired; and credit, enterprise, and business most injuriously affected. We are now in a country of vast resources, yet undeveloped for want of capital. We need capital to improve our water powers, to build up our villages, and carry on various branches of business which can be done at a great profit. While money is plenty in the New England States at six per cent, it cannot be borrowed here at twelve per cent; and as our laws grow poorer and poorer, the rate of interest will become higher and higher. It is frequently admitted by the supporters of the constitution that the merchants and business men of the territory are generally opposed to the constitution. Do they not understand their own interest? Is it not better for them that the farmer, mechanic, and laborer should be rich than that they should be poor? Do not people trade according to their means? Whoever heard of a merchant selecting an impoverished country as a place eminently favorable for trade? On the other hand, are not the farmer, mechanic, and laborer benefited by the construction of mills, by the building up of villages, and by almost any outlay of capital in the country? Sir, we are mysteriously and intimately connected together in the present state of society by a thousand ties, so that almost every individual in the community is benefited by the prosperity of any other individual and injured by his adversity. There is no diversity of interests between persons of different pursuits, and all attempts to excite prejudices between them are most reprehensible. If our own business men then so uniformly object to these provisions, business men abroad will be likely to take the same

view, even if the provisions were abstractly good. Our credit abroad will be seriously impaired. Now almost every merchant in the territory buys his goods in New York City on credit. Under this constitution he must either purchase no goods or purchase them at a greater price, on account of the increased risk of crediting. If he buys at a greater price he will charge his customers the same excess and also a still higher price for his increased risk in crediting. "O! but this credit is a terrible thing; we wish to cut off all credit." Does not the farmer, when he sows his wheat in the fall, credit his farm for a year? When he raises a horse or an ox does he not credit him for three or four years? If he has an hundred acres covered with grain, is it not as proper that the merchant or mechanic, who has furnished him with some of the necessities of life, should wait to be compensated for his labor until the grain ripens, as well as the farmer? It requires capital to carry on any branch of business profitably, and some branches require a great outlay of capital. Would you, then, say that no young man, however well qualified he may be for a particular branch of business, shall engage in it unless he was either born rich or has served some master by the month or year until he has acquired the necessary amount? Will you give the monopoly of every kind of business to the rich alone? Have no merchants, no millers, no large farmers, but those who can pay for everything in cash, and thus destroy all competition? If a farmer had forty acres of land which he had not the means to cultivate, and a stout man seeking employment should cultivate it and wait till the crop was harvested for his pay, would not both parties be greatly benefited? I do not join, sir, in this indiscriminate crusade against credit. But these provisions, it is said, will operate like magic and merely cut off the abuses of credit. It will be magical indeed if they do.

While on this subject permit me to notice an expression which is often used instead of argument, viz., "the hard-hearted creditor and the poor debtor." Almost every man in this country is both debtor and creditor. The hired man who works for the farmer is the creditor, and the farmer is the debtor. The mechanics are almost all creditors, and you cannot divide society off into two distinct classes of debtors and creditors. So far as my observation has gone in this territory in nine cases out of ten the saying should be reversed so as to be "the poor creditor and the hard-hearted debtor," for I have seen twenty poor men oppressed by a rich debtor not paying them, where I have seen one injured by a rich creditor.

During the past two years almost the whole of the emigration to the southern portion of the territory has consisted of men of capital and enterprise, who wished either to purchase improved farms, or carry on some kind of business in our villages. Will not that class of men at the East have the same opinion about our constitution that the same class of our citizens have, and shall we adopt a constitution which will tend to exclude them and invite in those who wish to take advantage of our exemptions and married women's rights?

Mr. President, I have had neither time nor strength, if I had possessed the ability, to do justice to this discussion. I have barely touched upon those topics upon which I have spoken, and there are many important views to which I have made no allusion at all. Deeply impressed with the belief that the adoption of this constitution is fraught with evil consequences which can never hereafter be remedied, I earnestly invoke reflecting men of all occupations to ponder well these great subjects, and so to act as will best promote their own and the interests of their country. We, of Wisconsin, boast of the fertility of our soil, the facility of its cultivation, and the salubrity of our climate. These are great blessings, but may be rendered almost entirely worthless by a bad government. Look at Egypt, Italy, and Turkey, countries highly favored by nature, but blasted by misrule. We boast of the morals and intelligence of our people, our wholesome laws, and our good institutions, and justly, too, in many respects. There is one noble and distinguishing trait in the character of our citizens. It is the interest they take in the welfare of the territory—their public spirit, their state patriotism, if I may use the expression. The citizens of Wisconsin are not only contented with their new homes, but generally enthusiastic in their praises of them. They have selected their own farms, raised them from their wild condition to a high state of cultivation, made their improvements where and as they pleased, built school-houses, constructed roads, established churches, organized towns and counties, laid the foundations of flourishing villages and cities, and it is all the work of their own hands. They have the same pride, not carried to excess, which the king had, when he said, "Is not this great Babylon which I have built?" Everything here is in progress, a state of things the most agreeable to the human mind. Our citizens look back to the past with pleasing reflections, and forward to the future with bright anticipations. The words of the poet, with a slight alteration, are exceedingly appropriate to us:

Is there a man with soul so dead,
Who never to himself hath said,
This is my own, my chosen land?

In the older states, on the contrary, where society is stationary, where almost everything of a public nature has been already accomplished, where nothing better than the present is to be expected from the future, there is a strong tendency to make each person an isolated being in society, absorbed in his own and indifferent to the welfare of others. Hence it is almost impossible for anyone who has been some years in the West to be again contented with a residence at the East. Let us foster and cherish this noble and generous virtue—let us furnish it with its proper aliment—let us raise our standard of excellence higher and higher, so that at some future day we may point with just pride to the high social and political, moral and intellectual condition of our people and feel assured that the name of Wisconsin, like that of Washington, will have associations gathered around it which will be dear to every lover of freedom.—*Racine Advocate*, Feb. 24, and March 3, 1847.

REMARKS OF MR. CLARK, FEBRUARY 6, 1847

MR. PRESIDENT: The honorable councillor from Racine, Mr. Strong, has taken occasion to entertain the Council some three hours with a written and labored argument, analyzing, discussing, and deciding upon the constitution which is now before the people. Sir, I have deemed his remarks entirely irrelevant to the question before the Council. I am not prepared to discuss the merits or demerits of the constitution at this time and in this place. My constituents, sir, did not elect me for that purpose; they claim it as a right which belongs to them to discuss and adopt or reject that important instrument as they in their wisdom shall deem proper. I have listened to the gentleman's analysis of the constitution, and his long and labored arguments against its adoption by the people with attention and patience, and I hope the gentleman will extend the same courtesy to me while I occupy the floor in reply; and the gentleman will excuse me if in the course of my remarks I should attempt to analyze (not the constitution) but his singular and strange course in the convention and should animadvert somewhat severely upon his political course since.

But, Mr. President, before I commence my reply to the gentleman from Racine I have somewhat to do with the honorable member from Milwaukee, Mr. Wells, who had the honor to open the debate on the bill now before the Council. The first argument which the