frankly acknowledged that he had belonged to the committee, and raised no objection to the report; yet upon mature reflection he could not approve the method there pointed out. Would it, he would ask, if the election were given to the people, be in the power of the Governor to displace him and fill his place? If not, then in order to keep up the concord and unanimity which should exist in the Executive department, it would be the safest course for the Governor to nominate and the Senate to confirm. If he should make an improper selection, it would be in the power of the Senate to reject; and then it is made the duty of the Governor again to nominate, and so until a man shall be chosen who will meet their views, possessing the qualifications, character and capacity necessary in a Secretary of State.

The substitute was rejected, and the amendment adopted.

Question on the adoption of the section as amended.

Mr. Bache said that before the question was taken, he would move to strike out that portion, defining the period of continuance in office, so as to provide that he shall continue in office "during the Governor's continuance in office, if he shall so long behave himself well." Because if the Governor should go out of office before the end of the four years, and the Secretary of State should still remain in office, the original relationship would cease to exist. The object was that the Secretary of State should be in for the same term with the Governor.

Mr. Van Zandt moved to strike out the latter clause. Accepted by Mr. Bache.

Mr. Hemphill suggested to make it read simply "there shall be a Secretary of State, who shall be appointed by the Governor."

On motion of Mr. Van Zandt, the committee rose, &c., and

The Convention adjourned until to-morrow morning, at half past 8 o'clock.

Saturday, July 19th, 1845.

The Convention met pursuant to adjournment.

Prayer by the Chaplain.

On motion of Mr. Gage, Mr. Bagby was added to the committee on the Legislative Department.

On motion of Mr. Gage, the Convention took up the
ORDERS OF THE DAY

The report of the committee on the Executive Department being first in order, was taken up.

On motion of Mr. Jones, it was laid on the table for the present.

The resolution of Mr. Hogg of the 17th inst., in relation to the apportionment of Representation, was taken up and referred to the committee on the Legislative Department.

The resolution of Mr. Jones, in relation to the apportionment of Representation, was taken up, and on motion of Mr. Moore, referred to the committee on the Legislative Department.

The resolution of Mr. Wright, requiring the committee on General Provisions to enquire into the expediency of establishing Judicial counties, was taken up and referred to the committee on the Judiciary.

The resolution of Mr. Lipscomb, requiring the committee on General Provisions to enquire into the expediency of authorising the Legislature to protect by law, from forced sale, a certain portion of the property of all heads of families, was taken up and adopted.

The resolution of Mr. Forbes, of the 16th inst., requiring the committee on General Provisions to enquire into the expediency of prohibiting the passage of any law taking away the legal remedy for the collection of debts, &c., was taken up and adopted.

The report of the committee on Education, of the 16th inst., was taken up, and,

On motion of Mr. Young, 500 copies were ordered to be printed.

Mr. Jones moved that six additional members be added to the committee on the Legislative department, viz., two from the eastern, two from the middle and two from the western sections of the country; which motion was carried.

Mr. Davis offered the following resolution:

Resolved, That the committee on General Provisions be requested to take into consideration the propriety and expediency of authorising the first session of the State Legislature, to divide such counties as the convenience of the citizens require.

Which was read, and

On motion of Mr. Davis, the rule was suspended, and the resolution adopted.

Mr. Caldwell, from the committee on the State of the Nation, made the following report:

The committee, to whom was referred the various propositions for a division of the General Land Office, have had the same under consideration, and directed me to report the following article, and recommend the passage thereof.

(Signed,) JOHN CALDWELL, Chairman.
Which is as follows:

That the Legislature shall, as early as practicable, establish two Land Offices, one in the eastern and the other in the western section of the State.

Which report was read and laid on the table, to come up among the orders of the day.

On motion of Mr. Moore, the report of the committee on the Executive department was taken up: and

On motion of Mr. Young, the Convention resolved itself into a committee of the whole on the said report: Mr. Scott in the chair.

The amendment of the gentleman from Galveston was before the committee: in section 14th to strike out "four years," and insert "if so long he shall behave himself well."

Mr. Forbes suggested to insert "during the term of service of the Governor elect."

An amendment of this character was adopted.

On motion of Mr. President Rusk, the 15th section was stricken out.

In the 16th section, Mr. Forbes proposed to amend by adding "no bill of a general character shall be sent to the Governor for his approval within the last five days next preceding the adjournment of the Legislature."

The object, he said, was to prevent an evil, which no doubt had been witnessed to a great extent by every member present. It has been the practice heretofore, instead of taking up the business of a general character, to proceed with private bills till near the end of the session. Bills of a general character are then taken up and forced through the House in a very short time. And bills required to be signed by the Governor, are frequently kept by him in his pocket in order to avoid responsibility.

Amendment rejected.

Mr. Caldwell moved to strike out "five," and insert "three," rejected.

Mr. Young moved to substitute "two-thirds" for "a majority."

Mr. Moore said, I hope, Mr. Chairman, the motion will prevail. No doubt the veto power has been sometimes exercised for injury: but much more often for good. Sometimes the very safety of a State may depend upon the beneficial exercise of this privilege by the Executive. In examining the opposition to this measure, you can trace it back to the time when the lamented Andrew Jackson first vetoed the United States Bank. The cry of the party then opposed to that measure rang from one end of the Union to the other, from Maine to Georgia, and from Georgia to the Sabine: that it had been exercised for tyrannical purpo-
ses that it would be productive of evils incalculable. The cry increased and spread until the election of Gen Harrison. Then the party opposed to it exerted every influence to destroy the veto: and from that time to this, the cry is still widening and strengthening. I believe, however, that after a few years it will die away, and the party now opposed to this measure will again sustain it. We find that during a long term of fifty years this power has been exerted only for the common good, and has been sustained by all parties. Why now in the heat of passion discard a principle sanctioned by long experience, because the President of this Republic, as people suppose, has sometimes exercised this power for injury, but perhaps more frequently good? The war, it has been said, has begun; but I did not expect it would have begun against this great democratic principle. Where do you find the opposition to the veto power? Not in the democracy: but in the party now opposed to democratic principles. It has been observed that there are no parties here. I am glad there are none. I hope in the whole of this State we shall have but one uniform party: that democratic principles will prevail throughout the land. I believe the consideration that it is that party to whom we are chiefly indebted for annexation, will induce the great body of the people to sustain their measures, and one of them which they have perhaps preferred to all others, and most fully and heartily sustained, has been this veto power, as exercised by the President of the U. States. It may be that our President has sometimes exercised it injuriously: but while I may regret the fact, I will not impugn his motives. He has been sustained by the confidence of the people, and I believe that in his exercise of that power, he has intended to carry out the great principles which tend to the benefit of the country at large. I will not impugn his motives; they may have been bad, very bad; but I cannot search the human heart to ascertain whether he has been actuated by private malice or by the desire of public good. I hope therefore, that those who really wish to sustain the prerogatives of the Executive, to preserve that great check to legislative encroachment, will support this provision. The history of this Republic and of all past time proves that the Legislature is constantly encroaching upon the Executive. Our fathers of the American Revolution, in giving the President of the country the right to exercise the veto power, thought that the time might come when the salvation of the country might depend on its exercise as a check to rash, improvident and indiscreet legislation. Profiting by the lessons of the past, I hope we shall retain it in our Constitution until from its frequent abuse, the people shall find it necessary by an amendment of this instrument to abolish it.

Mr. Horton said he rose for the purpose of asking the gentleman from Harris to define clearly the doctrines upon which the democratic party is to act. He came here determined not to be out-democrated by any gentleman in this Convention: and now he was fearful that he should
be denounced as a heretic when he should go home. He had thought heretofore that the principles of the democratic party would be best secured by permitting the majority to govern. But it would seem, if he understood the gentleman's argument correctly, that the minority have to rule. He merely rose for the purpose of calling upon the gentleman to elucidate the doctrines of the democratic party, as with that party he had to act, and if consistent with his feelings would act with him with a great deal of pleasure.

Mr. Lipscomb said he had always believed it inconsistent with the principles of all free governments, that the will of the majority should be controlled by the exercise of this power. Considering it anti democratic, as indeed striking at the fundamental principles of a democratic form of government, he should therefore oppose it. He believed the veto power to be a wholesome and salutary restraint upon hasty legislation, but when the majority of both Houses of the Legislature deliberately pass and adopt a measure, he regarded it as contrary to the spirit of free institutions to allow the Governor to control the free exercise of their will.

Mr. Davis said that in reporting this provision the committee did not look to the principles of democracy, nor to those of aristocracy; nor to what had been done by this Governor or the other, by the President of the United States or the President of this Republic. But this was the extent to which they thought the veto power should go, and after mature deliberation and reflection they thought this provision would give it sufficient strength. It requires only a majority of the whole of the members elected to pass a bill over the head of the Executive, for it to become a law. He could not himself discover that this was anti democratic. Another consideration: the influence of the Governor could and would be very powerful in a legislative body. If the Governor sends such a bill with his veto and the reasons for it, and then in opposition to his reasons and his influence, the majority of the whole number of members think proper to pass it, he thought such should be the law.

Mr. Baylor said he hoped the motion made by the gentleman from Red River, and sustained by the gentleman from Harris, would not prevail. In the few remarks which he contemplated making, he should abstain entirely from reviewing the conduct of individuals, or the history of the past, in connection with this subject; because he could not well do so perhaps without reflecting to some extent upon persons now sleeping with the illustrious dead. But it was sufficient for his purpose to remark that whether it had been exercised properly or improperly, is a matter of little moment. Certain it is, there has been a great deal of discontent in the United States from this source, as well as in our young, interesting and beautiful Republic.
tain this feature in our Constitution; the same discontents will necessarily arise: and he thought it the duty of this body as far as possible to prevent these public disturbances, if they can wisely do so. Why has this feature been contained in every Constitution almost in the world? If we examine the history of the veto power and trace it to the country from which we take it, we shall find that in England the King has the absolute control over the Legislature of that country. If he vetoes any bill, there is no power in the legislative branch of the government ever to pass it. Our fathers in reflecting upon this subject, thought they had gone a great way from that arbitrary principle by permitting the Legislature to pass it by a majority of two thirds. This departure from the great principle as maintained in England was thought sufficiently democratic. But it would seem that our experience proves it well calculated to bring about great discontent in the community. And it is from this idea, that it permits the minority to govern. Our people are so familiar with the principles of democratic government that if the will of the majority is checked or controlled by any power, it must create dissention and dissatisfaction. Now every well regulated government must have its checks and balances. So that if the Legislative department, in the heat of party excitement, for example, shall be hurried away to pass a law prejudicial to the community, or leap over the barriers and boundary lines of the Constitution itself, there must be some controlling check to the hasty and ill-considered offspring of popular excitement, or strong and irritated party feeling. This controlling power is given to the Executive. And so if the Governor act improperly, he can be impeached, and thus the Legislature becomes in turn a check upon the Executive. Now it is to be remarked that, according to the scheme contemplated, you are to place in the hands of the Governor a great amount of power. He is to appoint the Judges, the Secretary of State, the Attorney General and the District Attorneys. If you give him this large amount of political power, what will be the result? He may disapprove every wholesome and salutary law which may be passed by the Legislature. With the political power which is to be placed in his hands, with the powerful patronage that he will possess, and with this power contemplated by the gentleman from Red River, instead of the Legislature, the immediate representatives of the people, having their way, the Executive will completely control the whole legislation of the country. In Alabama, the Governor has little or no power: he is almost a cipher under the Constitution of that State; and yet its framers have thought it wise that he should have no more power than it is contemplated to give him in the section as it now stands. Here, a majority of all the members elected must sanction the bill, and not a bare majority, not a mere quorum. It seemed to him that this was striking the true medium, the just medium between the extremes. He had heard Executives make a remark of this kind, that they considered themselves as constituting one-third of the legislative power of the country. Give him the con-
templated power, and you, make him at least one-third of your Legislature. It is at war with one of the great fundamental principles of free government. For himself, he made no pretensions to democracy; he thought that actions speak louder than words. He should vote against the motion.

Mr. President Rusk regretted to differ with the gentleman from Fayette; but he did differ most materially. He did not think the veto power was ever considered an active power of legislation. It would be found in a great number of the States which had adopted it, that it was rather intended as a check, a power only to be exercised negatively. Whatever power you give the veto, you give no power of originating. In order to carry on government, it is necessary that power should be somewhere; and you have vested it in the Legislative department. This power of the veto has probably been frequently abused, yet it is given, as he thought, wisely. Is it not better to submit to the anticipation of evils, than to forego a certain and important benefit? The Legislature, in a time of high excitement, may pass a law calculated to produce great injury. With this power, the Governor can interpose his check. He takes the heavy responsibility of coming out in opposition to the majority of the Representatives of the people. And the question then arises what portion of the Representatives shall be sufficient to pass a measure over his head. It seemed to him that the experience of the past had given the preference to the motion of the gentleman from Red River. If he should veto a salutary law from caprice, is it not extremely improbable that one-third of the delegates of the people, elected by them upon democratic principles, should be found to sustain him? The object of this provision is to prevent hasty legislation. The fact is notorious, that one of the greatest evils of a democracy or republican government, is legislating too much. The people are governed too much; there are too many laws. The history of all such governments clearly shows it, and ours in particular, and will do it for years to come. In the various acquisitions of population that we shall have from different parts, we shall have men of different opinions and different sentiments upon nearly all subjects. Then is it not best to adopt this provision which is found in the Constitution of the U. States, in those of many of the States, and in our own present one. This power has been often improperly used, and perhaps in no other country more than in Texas. But was this an argument against it? He thought not. So far as Democracy and Federalism had been brought to bear, he thought they had nothing to do with the question. He regretted to see a disposition here to read men into the Democratic ranks, or out of them. He believed that all were for Polk and Dallas, and they are the acknowledged leaders of the Democratic party. The first cry raised against the exercise of this power was that against General Jackson by Mr. Clay and his friends, with the object of breaking down that great man. Is there not a necessity,
for checking the legislative power? Is it not better to retain a law generally understood, if a little bad, than to keep continually changing the law? Man is such an animal, that if you trust him with power, he will sometimes abuse it. But if you take away power from the hands of every officer who may possibly abuse it, you will take away all power from all governments. He should vote with the gentleman from Red River, and in doing so, he did not believe he should place himself without the pale of the Democratic party.

Mr. Hemphill said he felt bound to support the propositions of the gentleman from Red River. It is a truth that every member of this body will admit, that unless there had been a similar provision in the Constitution of the United States, there would not have been one of them upon this floor, for the purpose for which they are now assembled. Had not John Tyler vetoed the Bank, and thereby thrown himself out of the party which elected him, the Whig party would have been now triumphant, our friends would have been prostrated, and it would have been impossible for any treaty on the subject of annexation to have taken place. He was not in favor of introducing novelties in our Constitution, but wished to model it as nearly as possible upon that of the United States. This power has worked well, and he would defy any gentleman to produce any instance of its exercise on the part of the President of the United States, which had not been advantageous to the people of the country, or which had not tended to support the people against the usurpation of the government. Had this power not existed, the system of internal improvement would now have been fastened down upon the country; the land would have been filled with banks, and the party in power would have been for banks instead of the party in the opposition. We talk of incorporating in our Constitution a provision against banks; had the veto not been exercised, it would have been the received doctrine here to day that banks are essential to every government. He thought the gentleman from Nacogdoches had sufficiently shown the object of the veto power to be to prevent encroachment on the Executive, and to check hasty and ill advised legislation. He considered, however that that power if given to the Governor would be futile; that parties would be so well organized in ten years that not one man could be changed by the reasons of the Governor. He would great deal rather, if the Convention seemed so disposed, that no provision of this kind should be introduced at all, so as to throw the whole responsibility of legislation upon the legislative department.

Mr. Mayfield said: I feel impelled, Mr. Chairman, to explain briefly the reasons which will control my vote. The true question for solution is this, whether experienced in legislation and the wisdom of the people establish the fact, that there exists a necessity for checks upon legislation. If not, any provision upon this subject would be useless. If,
however, in consulting impartial history and investigating the subject coolly, and dispassionately, without regard to individual cases of abuse of this power, we should come to the conclusion that checks upon legislation wholesome and salutary in themselves, I see no reason for departure from what past experience may have established. Though we find it one of the fundamental principles of the Constitution that the several departments are to be forever kept separate and distinct, it is one among its first provisions where it speaks of the Executive branch of the government, that in the event that the Governor shall act improperly or dishonestly, a check is placed over him by authorizing the Legislature itself to hold him to accountability, subjecting him to impeachment. Then we find that, in order to render government practicable upon the principles upon which we seek to establish it, it is necessary that each of the departments should have a check or control over the licentiousness of the others. It might be contended that there would be some degree of conflict and collision from subjecting the Governor to be controlled, punished or impeached by the Legislature; but the good order of society requires that he should be amenable to some tribunal, and nothing has been yet devised by the wisdom of man more suitable than the method pointed out in the Constitution. The next inquiry which arises is, in the event that the Legislature in times of especial excitement should transcend the rights and powers appertaining to that department, what check will you place over their wild, hasty and incogitant legislation? It is conceded, I believe, that such a state of things may arise, when the public safety may require some check upon this kind of legislation; and it is therefore wise to provide for it. In whose hands then shall we place that election? I would appeal to every gentleman here if it could be better placed, than, with proper restrictions, in the hands of the Governor, the Chief Magistrate of the State, whose province it is to see to the due execution of the laws and attend to the public welfare, who is placed there in part to aid and assist in legislation by recommending such measures as may best ensure the public prosperity and happiness. Could you place it in better hands than those of the Governor, called to his station for his experience and knowledge of the true condition of the country, who is supposed at all times to have an eye single to his country's good and his country's glory? This power must rest somewhere, and it seems to me, the only question is, what restrictions will you place upon its exercise? Let the provision stand as reported by the committee, and it appears to me wholly nugatory; in fact, it amounts to nothing. For myself, I feel called upon here to cast a vote upon a question of vital importance to the country; and whatever opinions I may have entertained with regard to the abuse of this power in former times, either in the government of the United States or in that of Texas, I feel called upon to discard them, and cast my vote with an eye to that state of things which may arise to render the use of it necessary in times to come. It is manifest that there must
be a check some where or other. The provision that certain laws shall not be passed except by a majority of two-thirds of the Legislature, adopted in some of the States, may be said to do violence to a great Democratic doctrine, in taking from the majority the right to govern. But experience has clearly demonstrated its wisdom. Some of the States have adopted the provision that particular bills, those relating to the expenditure of public moneys, should pass by a majority of two-thirds of both Houses. This is intended as a check to guard against an improvident expenditure of the public funds. Yet, it is taking from the majority the right of controlling in these matters. The case may arise, when violence may be done to the Constitution by the Legislature; its salutary provisions may be overlooked or disregarded in the passion and hurry of the moment. And whenever on an occasion of tumult and excitement, the hasty action of the Legislature may threaten the Constitution itself, intended to guard and protect us in the possession and enjoyment of our property and our political rights, should there not be some check, some power to call upon them at least to pause for a moment before doing violence to that sacred instrument; to persuade them to retrace their steps, and act upon the principles necessary to the good order and welfare of society?

Mr. Baylor said: It had been stated that the veto was a merely negative power. True, but this negative power may be used, and may bring about the most disastrous consequences to society. And so long as the sentiment is fixed and ingrained in the minds of the American people, that the majority should control, whenever their opinions are settled upon due deliberation, so long you may expect discontent when you place this power in the hands of the Executive. It is not only important that wise and good laws should be enacted, but that they should be satisfactory to the people. They will then obey the more cheerfully; they will acquiesce in them more readily. But when they see their wishes thwarted, as they must necessarily be, if you place so large an amount of power in the Executive, there will forever be dissatisfaction in the public mind.

Mr. Van Zundt said: It has been remarked, Mr. Chairman, that power is dangerous. According to my impressions there is no maxim more correct; and the only way to disarm it, and free it from a dangerous tendency, is to divide it. If you vest the two Houses of the Legislature, as proposed by the committee, with the sole unchecked power of enacting laws, it occurs to me that this power becomes dangerous; and that it is calculated to produce more disorganization and confusion in the country than any power which you are likely to bestow upon the Governor. As remarked by the gentleman from Fayette, in this country as in all others, instances are not uncommon, where bills of a questionable or injurious tendency have been presented, and passed through...
both Houses in the hurry of the moment, without being duly reflected upon. The Constitution provides that no bill shall become a law until it shall have been read on three several days in each House, and passed by the same, unless in cases of emergency the rule shall be suspended by a vote of two-thirds of the members of the House where it originated. I will appeal to gentlemen upon this floor to say how often the objects of that provision has been evaded, and measures requiring no slight degree of deliberation, have been taken up, and rushed precipitately through the House. The veto power has indeed been the safeguard of the country. Perhaps in a few instances, principally of a private character, it may have been improperly exercised; but I would ask gentlemen here to point to a single act of Congress vetoed by the Executive, which if carried out would have resulted beneficially. Or, on the other hand, what injury has ever been inflicted by the exercise of this power? On the contrary it is acknowledged by all parties that the existence of the veto power in this government has been the salvation of the country. Each and every Executive who has occupied the chair of State has upon some occasions exercised this power, and to the best of my recollection, with regard to matters of a general character, I know of no case of its improper exercise. Cases of an individual character, where perhaps it may have been misemployed from personal prejudice, I pretend not to inquire into. But in those pertaining to the public interest, in those of enactments to preserve the supreme law of the land, I know of no such instance. If you travel back to the United States, I ask upon what occasion has its exercise proved injurious there? It is true that discontent has prevailed to some extent with regard to it; but in what portion of that Union has it prevailed? In the great majority, or in the party now in the minority, and which has been in the minority for the last twenty-five years, except upon one or two occasions? Though I believe it unnecessary here to discuss the relations of parties in the United States, and avoid it as much as any one, yet I believe it not improper to allude to the great principles distinguishing those parties. A further restriction of the veto power is now a favorite principle of the Whig party. I believe however, that the great majority of the people have seen that it should not be restricted; but that its exercise has been wise and salutary; that it has produced good, or rather has prevented much evil. Gentlemen say that by requiring a majority of two-thirds you strike at the fundamental principles of free governments. This I deny. You do not thereby arm the Executive with the power to introduce a measure, nor do you give him the force and effect of one-third of the Legislature, except as a negative power. They say it is the great principle of all Republican governments that the majority shall rule. I recollect well a conversation with that distinguished man, Mr. Calhoun, in which he entered at length into the discussion of the veto power. He said that there was no tyranny known to the civilized world greater than that of the unrestricted power, a simple majority; and that he could no where find
the reason why forty-nine men should have the right, unrestrictedly to
govern forty-eight. We have had instances in this country where twenty-
one members have disfranchised eighteen or twenty, representing
twice the population represented by those twenty-one. Then it is not
universally a rule of republicanism that a simple majority has the un-
restricted right to force its edicts down upon a less number. Gentlemen
fear that if you give to the Executive the power of the veto the people
will be discontented; and argue that if you adopt a safe principle and
let a simple majority pass a law, if the people are dissatisfied, at the next
Legislature the law will be repealed. I would ask if this principle
should govern us, a principle which would require a change of the laws
every year? It has been frequently the case that our own Congress has
passed a law at one session, repealed it the next, and again reinserted it
the following year. If a law is of so wise and wholesome a character
that the public welfare imperiously demands its passage, its necessity
will be evidently apparent to two-thirds of the Legislature. If, on the
contrary, it is of so doubtful a character that it can obtain only a simple
majority of one or two votes, I say the people should be again called to
act upon it before it should become a law. If a wise law is postponed
for the moment, at the next election the question goes before the
people. Where then the difficulty if right in passing the law at a
subsequent session? If it is one of such permanent necessity, where
the evil in referring it to the second sober thought of the people? It is
rarely the case that any law requires to be passed so early that it cannot
wait another session of the Legislature. But as many evils may result
from hasty legislation, and power is more beneficial and less dangerous
when divided, and as each department is designed to operate as a check
over the other, I think it better to adopt the amendment of the gentleman
from Red River, by which we shall secure all the benefit of wholesome,
laws, and avoid the dangers consequent upon crude and ill digested le-
gislation.

Mr. Darnell thought the position assumed by the gentleman from
Harrison certainly not a proper one. What are the powers properly
belonging to the Governor? That he shall see the laws faithfully
executed; he swears to support the Constitution; and if a law should
pass the Legislature in his opinion unconstitutional, it is his duty to veto
it. Gentlemen contend that laws may be passed by the Legislature, and
should be vetoed by the Governor, which may be injurious to the com-

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Mr. Hempill said, that he believed the idea that a majority should always govern was one of these fallacious ideas about on a par with the doctrine that all men are born free and equal: one of the things which you see in books, but which are scarcely ever reduced to practice. — Take the history of the government of the United States, or that of any State. You will find it seldom the case that a popular majority governs. For instance, in regard to the election of President of the United States, you find New York, with a voting population of 500,000 giving about 36 votes; Delaware with but 10,000, giving three votes; and South Carolina with 6,000, giving her one vote, and so with other States. What then becomes of your majority? In truth the majority seldom prevails, because there is some ingredient everywhere mixed up with numbers. The very purpose of a Constitution is to take power from the majority in order to protect the minority; the minority can protect itself. Whatever basis of representation we may adopt, in ten years there will have been so many changes on account of the different ratio of increase in the population of the various sections of the country, that the majority will not rule. In 1836, it was perhaps based upon population, but in consequence of depopulation many of our members of Congress have been for some time representing not population, but territory. In the State from which I came, the majority does not govern, because wealth and numbers are equally represented there. Unless you take the vote by general ticket popular majorities cannot and will not prevail.

Mr. Davis said that all these arguments did not prove to him that the majority should not rule. Our government is based on the principle that the majority should rule, and if they do not rule it is an objection to the operation of the government. As regards the power of the Governor, it is contended that it is not orthodox democracy to cut down the veto power. I would ask gentlemen if it is democratic to give the Governor the power to paralyze the arm of legislation? Give him this power and you make him dictator at once.

Mr. President Rusk said, it is the majority of the legislature that pass a law, and not a majority of the people. So far as the Governor is concerned, he is elected by a majority of the people. The members of the Legislature are elected by the voters of the different counties. If the Legislature were chosen by a majority of the whole number of votes of the people, there might be something in the argument.

Mr. Baylor said: something has been said concerning parties in the United States. Go back to the contest between Jefferson and the elder Adams. One of the most interesting features of the two parties was this: The elder Adams and the party he drew around him were endeavoring to do — what? To concentrate all power and government in the
United States in the hands of the Executive: to make a strong and energetic government little short of a monarchy. Mr. Jefferson, who headed what was then called the democratic party, warred against these doctrines. After a while, in the history of parties when General Jackson came into power, he showed himself inclined to a pretty strong exercise of Executive power. In the day of Adams and Jefferson, to be in favor of the Executive prerogative was to be a Federalist: while at a later time, those attached to General Jackson and his opinions were the Simon Pure Democracy of the first water. What made Democracy under Jefferson, made Federalism under Jackson. For my part, I could never perceive how the same set of opinions at one period could make a man a Federalist, and at another a Democrat. But principles are eternal, and the wish to concentrate in the hands of any single man too large an amount of power, is a great and distinguishing feature in the principles of politics, no matter under whose administration. I have thought myself, that with the patronage of the Governor, if you clothe him with this additional power, it would be placing too much power in his hands, and if this opinion be Whiggery or Federalism, then I am a Whig or a Federalist.

Mr. Brown said that he was in favor of the section as it stood. He was unwilling that the Executive should participate in any manner in the legislative powers of the country. From the historical account of the veto power, it took its rise, as will be recollected, in the Constitution of Great Britain. In that country, whose Parliament answers to our Legislature, it consists of three powers: the King, the Lords, and the House of Commons. It is the principle of that government that laws shall be passed by the Parliament, and that the King shall participate therein. Hence this power contained in the Constitution of the United States. It was no doubt engrafted there at first from an erroneous impression. Its framers had no simple republican Constitution before them. The Declaration of Independence was recent; a few State Constitutions had been framed: but they had no precedent to guide them in the formation of that instrument, and no materials except such as were supplied by their individual information and experience. And if I understood its history correctly, the veto power was engrafted then with the idea, that the legislature having all powers would be making constant aggressions on the Executive; and that he should have this in order to repel them. But, sir, the power has been extended far beyond this: it has been applied in many cases not appropriate for its exercise. And I think there is a wide distinction between the power of the Executive under a State Government and under the General Government. In a State Government I think this power should be limited. In great national concerns, an act of great importance may be done irrevocably, without some such check. The government of the United States has its relations and correspondence with other powers; and an act may go

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forth and have its full effect upon these relations, with no power to rectify it. Not so with a State. If the Legislature err, there is a remedy through the people. The cases are totally dissimilar. And the principle perhaps would never have been incorporated into the Constitution of the United States, if it had been foreseen, that so far from the Legislative Department trespassing upon the Executive, the Executive would be eternally intruding upon the Legislature. None will deny that the Executive has made wide and deep inroads upon the power of the Legislature. Now whether the members of the Legislature represent the majority of the people or not, is not for the Executive to determine. It is not yet settled in this body whether we shall have our elections by general ticket. However, the Executive has no means of ascertaining the public will, except as that will is expressed through the representatives and oracles of the people. We are not a Democracy, but a Republic, in which the will of the people is conveyed through their representatives standing in the place and lieu of the people. If the Governor wants any expression of their will, he has to look to their representatives. He was unwilling that the Executive should share in the Legislative power of the country. It is contrary to the principles of our government, though in conformity with the institutions of Great Britain, where the principle is openly and palpably asserted that the Executive forms a branch of the Parliament. I know not what the distinction between popular majorities and majorities of the two Houses may be. It would be a very wrong thing for this Convention to fix a principle by which the minority of the nation should have prevalence and control over the majority in our Legislative assemblies. We have plainly asserted and declared in the charter of our liberties, that the several departments shall be kept distinct; and I could never give any assent to any provision, the effect of which would be to confer enormous legislative powers upon the Executive.

The amendment was adopted. Mr. Love moved to strike out the words "unless the Legislature, by their adjournment, prevent its return, in which case it shall not be a law," and insert "every bill not returned to the House in which it originated shall become a law, and shall have the same force and effect as if signed by the Governor." Amendment adopted.

On motion of Mr. Runnels, the 18th, 19th and 20th sections were stricken out.

In section 21st, Mr. Moore moved to strike out "always." Stricken out.

In section 28d, providing the mode of election of State Treasurer and Comptroller, Mr. Runnels moved to amend by inserting "joint ballot of both Houses of the Legislature," in place of "qualified electors."—Adopted.

The 24th section was stricken out.
In the 2d section, under the head of "militia," Mr. Young proposed to insert as a substitute for the latter clause, "shall furnish a substitute."

Mr. Moore said there were several denominations of Christians who held it as one of the doctrines of the Redeemer, that war shall prevail no more. The sect of Quakers are very numerous in the United States; yet it is well known that during the war of the revolution, they contributed as freely to sustain the soldiers in fighting the battles of the country as any other people. No injury could result from respecting the rights of those who entertain conscientious scruples on this subject.

Mr. Young said that the reason why he was unwilling to withdraw the amendment was this: we might be placed in many situations where paying an equivalent in money, horses or cattle, would not answer the same purpose as furnishing a substitute. And there might be many persons also, we may anticipate, who might probably find it convenient on some occasions, to throw themselves upon their conscientious scruples.

Mr. President Rusk said he was not disposed to interfere with any man's conscientious scruples; but these were of such a character as to strike directly at the foundation of governments. If such principles had prevailed with the majority of a people of Texas, we should not now have been in existence as a Republic. A sect of Mormons may hereafter arise here, who may claim conscientiously to believe that they ought not to pay taxes; and on the same principle they may demand our protection.

He had an objection to this section and all which follow. He thought there was no necessity for including sections of this sort in the Constitution. The 1st section gives the Legislature all the authority over the subject which the Convention has now. And this 2d section does not define the mode of ascertaining who does entertain conscientious scruples. He would leave it to the Legislature to lay down the principles upon which to determine this matter.

Mr. Henderson said that within the last few days he had reflected somewhat upon the subject, and had endeavored to gain his own consent to strike out all sections of this sort which may appear in our Constitution. But he could not gain that consent. When he saw that, in other points this Convention had endeavored to protect the consciences of all men, he could not now make an exception to the rule. If it should be the case that any man should refuse to bear arms from cowardice, he thought that he had better be excused, because he would make but a bad soldier. If on the other hand, he was influenced by scruples of conscience, we should excuse him: nor should we allow a man to contribute to the support of a war, if he thinks it against his conscience or re-
ligion. He had seen in his own native State an illustration of the hardship which in matters of this kind might bear heavily upon a certain class of religionists. He had seen a tax laid upon the Quakers, which they regarded as an oppressive interference with their consciences; forcing them to contribute to the support of a war which they believed they were not allowed by their religion to interfere in. He had seen them apply to the Legislature for relief, by a committee; had seen their petition rejected, and seen them depart with an expression upon their faces which would strongly excite the sympathies of any man. A single instance of this kind, would have induced him to vote against any such compulsory provision.

The amendment was rejected.
The 4th, 5th and 6th sections were stricken out.
On motion of Mr. Van Zandt, the Committee rose, reported the various amendments, and asked leave to be discharged. Report adopted, and the Convention adjourned until Monday morning, 8 o'clock.

Monday, July 21st, 1845.

The Convention met pursuant to adjournment.

The Chaplain addressed the Throne of Grace, as follows:

O thou whose presence is fullness of joy, and at whose right hand are pleasures forever more. Before thee this morning, we present us in order to make prayer and supplication. We would acknowledge our waywardness and backwardness, and our short comings. We would pray thee to heal all our backslidings, and lift upon us the light of thy countenance, reconciled, that we may be enabled to see with thy light, and walk in the light as thou art in the light. Prepare us for each and every event that may await us: help us to do good and get good here on earth. We pray thee to grant thy wisdom to this Convention, that they may be enabled while in session, to transact the business of this nation with an eye single to thy glory. Grant thy blessings to rest upon their labors, that they may all redound to thy glory, and the best interests of the community. We pray thee, Holy Father, to regard with us all that we should pray for everywhere—that we may persist, succor the distressed and relieve the oppressed; bind up the broken-hearted: be a father to the fatherless, and a husband to the widow. And when we shall have done with the things of time and sense, bring us to thy everlasting kingdom—through Christ our Redeemer, Amen.