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 every where—save them that 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.

Mr. Lewis presented the credentials of Charl s B. Stewart, claiming a seat in this body, from the county of Montgomery, which were referred to the committee on Privileges and Elections.

The President announced the additional members of the committee on the Legislative Department, contemplated by the resolution of Mr. Jones, of the 19th instant, which are as follows:—Messrs. Gage, Tarrant, Lewis, Armstrong of R, Howard and Horton.

The amendments of the committee of the whole on the Executive Department, being first in order, were taken up.

The first amendment to strike out "General Assembly" wherever it occurs and insert "Legislature," was adopted.

In the substitute of the committee for the 3d section, Mr. Jones moved to strike out the words "highest number of votes," and insert the words "being constitutionally eligible;" which was lost.

On motion of Mr. Runnels, the words "being constitutionally eligible" were inserted after the words "highest number of votes."

The substitute of the committee for the 3d section then read as follows:

"The returns of every election for Governor, until otherwise provided by law, shall be made out, sealed up and transmitted to the seat of government, and directed to the Speaker of the House of Representatives, who shall, during the first week of the session of the Legislature thereafter, open and publish them in the presence of both Houses of the Legislature; the person having the highest number of votes, being constitutionally eligible, shall be declared by the Speaker, under the direction of the Legislature, to be the Governor; but if two or more persons shall have the highest and an equal number of votes, one of them shall be immediately chosen Governor by joint vote of both Houses of the Legislature; contested elections for Governor shall be determined by both Houses of the Legislature:" which substitute was adopted.

In the 4th section the amendment of the committee was adopted—strike out the word "his" in 2d line, and insert before word "time," the word "regular"—strike out "native" in 5th line. The ayes and noes were called for on striking out, and were as follows:

Ayes—Messrs. President, Armstrong of J., Armstrong of R., Baylor, Bache, Brashear, Brown, Clark, Cunningham, Cuney, Darnell, Evans, Everts, Forbes, Gage, Hemphill, Hicks, Horton, Howard, Holland, Hunter, Irion, Jewett, Jones, Kinney, Latimer of L., Latimer of R. R., Lumpkin, Lusk, Lipscomb, Love, Mayfield, Bagby, Moore, Navarro, Parker, Power, Raines, Scott, Smyth, Van Zandt, White and Wood—43.

Noes—Messrs. Anderson, Burroughs, Caldwell, Davis, Hogg, Lewis, McGowan, McNeill, Miller, Runnels, Tarrant, Wright and Young—13.

Amendment adopted.

A further amendment of the committee to the 4th section was adopted,

which reads as follows: "and shall have resided in the same four years, immediately preceding his election."

In section 5th the following amendment of the committee was adopted: "The first Governor shall receive an annual salary of two thousand dollars and no more."

The amendment of the committee to the 8th section is as follows:—strike out "or at a different place if that shall have become, since their last adjournment, dangerous from an enemy or from contagious disorders," and insert "or at a different place if that should be in the actual possession of a public enemy," which was adopted by the following vote:

Ayes—Messrs. President, Anderson, Armstrong of J., Armstrong of R., Baylor, Bache, Caldwell, Cunningham, Darnell, Forbes, Gage-Hemphill, Henderson, Horton, Holland, Howard, Hunter, Irion, Jewett, Kinney, Latimer of L., Latimer of R. R., Lumpkin, Lipscomb, May, field, Bagby, Miller, Navarro, Power, Runnels, Tarrant, Van Zandt, White and Wright—34.

Noes—Messrs. Brashear, Burroughs, Clark, Cuney, Davis, Evans, Everts, Hicks, Hogg, Jones, Lewis, Lusk, McGowan, McNeill, Moore, Parker, Raines, Scott, Smyth, Wood and Young—21.

In section 9th, after the word "information," insert "in writing," in 2d line, which amendment of the committee was adopted.

The amendment of the committee to the 11th section was adopted, and is as follows:

Amend 11th section by striking out all to the word "in" in 4th line and insert "in all criminal cases, except those of treason and impeachment, he shall have power, after conviction, to grant reprieves and pardons, and under such rules as the Legislature may prescribe, he shall have power to remit fines and forfeitures."

The following was offered by the committee, to come in between the 11th and 12th sections:

There shall also be a Lieutenant Governor, who shall be chosen at every election for a Governor by the same persons, in the same manner, continue in office for the same time, and possess the same qualifications. In voting for Governor and Lieutenant Governor, the electors shall distinguish whom they vote for as Governor and whom as Lieutenant Governor.

The Lieutenant Governor shall, by virtue of his office, be President of the Senate, and have, while in committee of the whole, a right to debate and vote on all questions, and when the Senate is equally divided, to give the casting vote.

In case of death, resignation, refusal to serve, or removal from office, or from inability to serve of the Governor, or of his impeachment, or absence from the State, the Lieutenant Governor shall exercise the powers and authority appertaining to the office of Governor, until another be chosen at the periodical election for Governor, and be duly qualified.

or until the Governor impeached or absent shall be acquitted or return.

Whenever the government shall be administered by the Lieutenant Governor, or he shall be unable to attend as President of the Senate, the Senate shall elect one of their own members as President *pro tempore;* and if, during the vacancy of the office of Governor, the Lieutenant Governor shall die, resign, refuse to serve, or be removed from office, or if he shall be impeached, or absent from the State, the President of the Senate *pro tempore* shall in like manner administer the government until he shall be superceded by a Governor or Lieutenant Governor. The Lieutenant Governor shall, while he acts as President of the Senate, receive for his services the same compensation which shall be allowed to the Speaker of the House of Representatives, and no more, and during the time he administers the government as Governor, shall receive the same compensation which the Governor would have received, had he been employed in the duties of his office, and no more.

The President *pro tempore* of the Senate shall, during the time he administers the government, receive in like manner, the same compensation which the Governor would have received, had he been employed in the duties of his office, and no more.

If the Lieutenant Governor shall be required to administer the government, and shall, whilst in such administration die, resign, or be absent from the State during the recess of the Legislature, it shall be the duty of the Secretary of State, for the time being, to convene the Senate for the purpose of choosing a President *pro tempore.*

Mr. Jewett offered the following amendment to the above section: after the words "refusal to serve," insert "or for inability to serve;" which was adopted.

Mr. Davis moved to strike out all that relates to the Lieutenant Governor serving as President of the Senate.

Mr. *Lewis* said if it was determined upon to have a Lieutenant Governor, let him be elected for the special purpose of discharging the duties of Governor in case of necessity. But you invade the rights of the Senate, when you elect him to preside over that body. You take from them a right which they have in many of the States, and which he thought they should certainly have secured to them. And according to this proposition he has a right to mingle in the debates of the committee of the whole. This he thought wrong: because he might thus exercise a very powerful control over the action of that body. Again: this State is in its infancy, and not able to incur any expense which can be dispensed with. And there is no cogent necessity for the creation of a Lieutenant Governor. These were briefly the reasons which would induce him to vote for the motion to strike out: and he should vote against the whole amendment, because he thought the office altogether unnecessary. He was inclined to confine the provisions of this Constitution to the formation of a State government; and was not disposed to imitate the Federal

government in all respects. He discovered a disposition here to make everything conformable as far as possible to the system of the Federal government. That government has powers which it would be extremely dangerous to give to a State government. The Executive has too many powers. And he would again suggest that the republican party in the U. States has been waging war against the exercise of power in the hands of the Executive.

Mr. *Davis* said he would make but one remark. He should vote for striking out, with a view to make the section as little objectionable as possible; but then he should vote against the amendment. If we are to have a Lieutenant Governor, he was disposed to confine him entirely to the discharge of the duties of Governor. Supposing it possible that the majority of the House might be in favor of the creation of this officer, and at the same time willing to deprive him of the right of presiding over the Senate, he had made the motion.

Mr. *Runnels* said that the object of this amendment to the amendment was to defeat the whole project for the creation of a Lieutenant Governor. It is not as the gentleman from Montgomery stated in his remarks, exclusively in pursuance of the plan of the Federal government of the U. States, that this amendment was proposed. Nor is it the fact that the Federal government is a stronger form of government than that of a State. Many of the States have incorporated this provision in their Constitutions, and all of them have made this officer the President of the Senate. The Federal government is one of limited and expressly delegated powers. The war alluded to between parties in the United States, has been upon the subject of constructive powers; one party advocating a latitudinous construction of the Constitution, and the opposite party advocating the doctrine of literal construction, and denying the right of Congress to exercise any other power than such as may be necessary to carry out those expressly delegated. Gentlemen see an insurmountable objection in the fact that the Senate will be deprived of certain privileges and rights which they should enjoy, particularly in the election of their presiding officer. Now in the formation of a State government, it is certainly within the power of the people to make such a provision, and we are here as the delegates of the people. The creation of this officer, in his opinion, was indispensible, for several reasons. An individual would not then be called upon to administer the government, as Governor, who had never been thought of as such by the people. Without it, one county, and that without regard to his duties as Governor, would have the election of this important officer. One county would elect an individual, who would go to the Senate and be elected President of that body, and might be called upon to administer the government for one half the term, or more perhaps, for which the Governor may have been elected. Is it not proper and necessary, is it not just

that the people when they vote for an officer, should have some regard to the position he is to occupy? He might vote for a man for Senator, whom he would not select for Governor. As to the additional expense referred to, it amounted to nothing. It can only at most amount to the expense of one Senator.

Mr. *Jones* said that he believed the gentleman from Brazoria was wrong in his view of the object of the House. He should vote for striking out, but from different motives. He should vote for the office, believing it necessary: but he was opposed to that officer presiding over the Senate, or participating in the action of that body. He believed the Senate might elect a President, with whom they would be much better satisfied. than with an individual elected by the people *en masse.*

Mr. *Mayfield* said that he could not see any objection to making the Lieutenant Governor preside over the deliberations of the Senate. And he thought the position correct which had been assumed by the gentleman from Brazoria, that the officer who is to discharge the duties of Governor should be selected by the people with an eye to fill that vacancy. There did not seem to him to be any validity in the objections urged against his presiding over the Senate. Instead of being an invasion of the rights of the Senate, it appeared to him, that if you give the Lieutenant Governor that position, and allow him to participate in the debates in committee of the whole, you are retaining to the people a check over that body; you are giving the people the right to place one there who from his virtue, patriotism and qualifications, may at all times exercise a wholesome restraint over their deliberations. It is no invasion of their rights; because he is called there by the people. If they see fit to place a monitor over that body, they retain the power at all times to control hasty legislation. The argument is not just, either, as to vesting greater powers in the Executive branch of the government. You simply provide for electing a Lieutenant Governor, whose duties are defined in the amendment. No danger could possibly arise from it, except in the imagination of gentlemen. He should vote for the amendment as it stands.

Mr. *Caldwell* said that he would give his reasons in a few words for the vote he should give on this question. The same reasons that would operate upon some in favor of striking out, would operate upon others and upon him, to keep that portion in. If it is desirable to have a Lieutenant Governor at all, he ought to have some duties conferred upon him; the officer should have sufficient responsibility to draw the attention of people to it, that they may be induced to elect an individual capable and competent to discharge its duties. If you make the office of Lieutenant Governor without a salary, which will certainly prevent a man of capacity from making any exertions to obtain it, and without any

duties to perform, you will ascertain that after one or two terms, every one will become careless, and the people will perhaps elect an individual wholly incapable of discharging any duties at all. He had no objection to the Senate or the House either nominating an individual to discharge the duties of Governor, in case of accident or death, an event very likely to occur in this southern climate. He did not think the people would at all like to throw the choice in that case upon either branch of the Legislature. He was satisfied that they would in all cases prefer nominating and electing the individual who is to take the chair of state. Then if they desire it, it is right that they should have it. As to the objections urged by some against permitting that officer to participate in the discussions of the Senate in committee of the whole, they appeared to him very vain and futile. Are gentlemen fearful that body will be composed of such individuals, that they would be afraid to trust them with a man of talents among them, a man capable of reasoning, capable of discussing and elucidating the subjects which come up for their deliberation? As a member of that body, he would be glad of the opportunity to hear such a man there. He ought to be solicited to take a part, instead of being denied the liberty of participating in the discussion. Having no vote, he can exercise no influence except that of argument and reason; and that ought to sway, control and govern at all times.

The ayes and noes were called upon striking out, and were as follow:

Ayes—Messrs. Bache, Burroughs, Davis, Evans, Hogg, Hunter, Irion, Jones, Latimer (of L.) Lewis, Lumpkin, Lipscomb, McGowan, Parker, Raines, White and Wood—17.

Noes—Messrs. President, Anderson, Armstrong (of J.) Armstrong (of R.) Baylor, Brashear, Brown, Caldwell, Clark, Cunningham, Cuney, Darnell, Everts, Forbes, Gage, Hemphill, Henderson, Hicks, Horton, Howard, Holland, Jewett, Kinney, Latimer (of R. R.) Love, Lusk, Mayfield, McNeil, Baghy, Miller, Moore, Navarro, Power, Runnels, Scott, Smyth, Tarrant, Van Zandt, Wright and Young—40.

Motion lost.

The ayes and noes were called for on the adoption of the section as amended, and were as follows:

Ayes—Messrs. President, Armstrong (of J.) Armstrong (of R.) Baylor, Brashear, Brown, Caldwell, Clark, Cunningham, Cuney, Evans, Everts, Forbes, Gage, Hemphill, Henderson, Holland, Jewett, Kinney, Latimer (of R. R.) Love, Lusk, Mayfield, Bagby, Miller, Moore, Navarro, Power, Runnels, Smyth, Tarrant, Van Vandt, Wright and Young—34.

Noes—Messrs. Anderson, Bache, Burroughs, Darnell, Davis, Hicks, Hogg, Horton, Howard, Hunter, Jones (of L.) Lewis, Lumpkin, Lipscomb, McGowan, McNeil, Parker, Raines, Scott, White and Wood—23.

The section as amended was adopted.

In section 14th, the following amendment of the committee: "strike out from the word "State," in the first line, to the word "continue;" in the second line, and insert the words "who shall be appointed by the Governor, by and with the advice and consent of the Senate"—was adopted by ayes and noes as follows:

Ayes—Messrs. President, Anderson, Armstrong (of J.) Armstrong (of R.) Baylor, Bache, Brashear, Brown, Burroughs, Caldwell, Cunningham, Cuney, Darnell, Everts, Forbes, Gage, Hemphill, Henderson, Hicks, Hogg, Horton, Howard, Hunter, Irion, Jewett, Jones, Kinney, Latimer (of L.) Latimer (of R. R.) Love, Lumpkin, Lusk, Lipscomb, Mayfield, McGowan, McNeil, Bagby, Miller, Moore, Navarro, Parker, Power, Raines, Runnels, Scott, Smyth, Tarrant, Van Zandt, Wright and Young—50.

Noes—Messrs. Clark, Davis, Evans, Holland, Lewis and Wood—6.

Mr. Davis offered the following substitute for the amendment first adopted:

"There shall be elected by joint ballot of both Houses of the Legislature one Secretary of State, one Attorney General, one Treasurer and one Auditor, who shall hold their offices for the term of two years, and should a vacancy occur in either of the offices, it shall be filled by the Governor, until the next session of the Legislature, and until a successor is elected and qualified."

Which substitute was rejected.

Mr. Mayfield offered the following amendment to the 14th section: insert after "Legislature" in the 6th line "or either House thereof;" which was adopted.

The following amendment of the committee to the 14th section was adopted: In 2d and 3d line, strike out "who shall continue in office during the term of four years', and insert "shall continue in office during the term of service of the Governor elect;" and the section as amended was adopted.

The proposition of the committee to strike out the 15th section was adopted by the Convention.

In section 16th, the following amendment of the committee was taken: ustrike out in 7th line "a majority of the whole number elected to that House," and insert "two-thirds of the members present."

In the 10th line, strike out "a majority of the whole number elected to" and insert "two-thirds of the members present of." which amendment was adopted.

Mr. Darnell moved to strike out the words "members present," and insert "members elect;" upon which the ayes and noes were called, and stood as follows:

Ayes—Messrs. President, Armstrong (of R.) Bache, Burroughs, Caldwell, Clark, Cunningham, Cuney, Forbes, Hemphill, Hogg, Howard, Jewett, Latimer (of R. R.) Latimer (of L.) Lumpkin, Lusk, May-

field, McNeil, Bagby, Miller, Moore, Navarro, Parker, Power. Raines, Runnels Scott, Smyth, Van Zandt, White, Wood and Young —34.

Noes—Messrs. Anderson. Armstrong (of J) Baylor, Brashear, Brown, Darnell, Davis, Evans, Everts, Gage, Henderson, Hicks, Horton, Holland, Hunter, Irion, Lewis, Love, Lipscomb, McGowan, Tarrant and Wright—22.

So the motion was adopted.

The following amendment of the committee, to the 16th section, was adopted:

Strike out 18th and 19th lines, and insert "and bills presented to the Governor, one day previous to its adjournment, not returned to the House in which they originated, before the adjournment of the Legislature, shall become a law, and have the same force and effect as if signed by the Governor"

The amendment of the committee, to strike out the 18th, 19th and 20th sections, was adopted by the Convention.

The amendment of the committee, to strike out, in the 1st line, 21st section, the word "always," was adopted.

The amendment of the committee, to the 23d section, was adopted, and is as follows:

Amend by striking out all after the word "be," in the 2d line, and insert the words "biennially elected by the joint ballot of both Houses of the Legislature; and, in case of vacancy in either of said offices during the recess of the Legislature, such vacancy shall be filled by the Governor: which appointment shall continue until the close of the next session of the Legislature thereafter."

The amendment of the committee to strike out the 24th section, was adopted by the Convention.

The amendment of the committee to strike out the 4th, 5th and 6th sections of that part of the report relating to the militia, was adopted.

On motion of Mr. Mayfield, the Secretary was ordered to make out a fair copy of the report of the committee on the Executive Department, as amended.

On motion of Mr. Latimer (of R. R) the report of the committee on the Legislative Department was taken up: and on motion of Mr. Mayfield, the Convention went into committee of the whole on said report, Mr. Mayfield in the chair.

In the 1st section, Mr. Jones moved to strike out "white;" lost.

Mr. *Young* moved to strike out "not taxed."

Mr. *Runnels* said that there might be many Indians taxed who were intelligent men and good citizens. In Mississippi the Legislature had passed a law allowing said persons to vote.

Mr. President *Rusk* said he should vote against striking out, not that he thought it material, but it is the term used in the Constitution of the United States. There will be very few Indians taxed, and very few ex-

cept the civilized, allowed these privileges. The committee would recollect the difficulty and great political excitement which had grown out of the subject of conflicting jurisdiction.

The motion was withdrawn.

Mr. *Moore* moved to strike out "now" before "Republic;" lost.

Mr. *Van Zandt* moved a re-consideration of the vote on striking out the word "white."

Mr. President *Rusk* said that he hoped the word *white* would be stricken out. If, as decided by the courts of the United States, all others except Africans and the descendants of Africans are white, where is the necessity of retaining it? It will be the same thing, whether it be stricken out, or remain. But if it remains, it may give rise to misunderstanding and difficulty. Every gentleman will put his own construction upon the term *white*. It may be contended that we intend to exclude the race which we found in possession of the country when we came here. This would be injurious to those people, to ourselves, and to the magnanimous character which the Americans have ever possessed.

Mr. *Runnels* said that the term *white* was intended by the committee to include Mexicans. The construction of the law was understood to be that all persons not Africans or the descendants of Africans, are deemed and considered white persons. Then he saw no necessity for striking it out. It would be placing our Constitution in an attitude before the world assumed by no other on the face of the earth. Inasmuch as the term *white* is not designed, and by no inference or construction under heaven could exclude Mexicans, he thought the amendment totally unnecessary and uncalled for.

Mr. *Kinney* said that from the argument of the gentleman from Brazoria, he was more strongly inclined to believe that it was absolutely necessary that the word "white" should be stricken out. All must be well aware that in closely contested elections every means is made use of to carry the election on the one side or the other. He had himself, on such occasions, seen persons known to have been citizens for the last six years, and four of that time employed in the service of the country without ever receiving one dollar of compensation, refused the privilege of voting. He had known such men to take the oath of allegiance three several times, and the only objection made was, that they could not be considered white persons; they were Mexicans. He would appeal to any honorable gentleman in this House, if it would not be easy sometimes to convince the judges of elections that certain men are not white, if a sufficient motive is presented? He had seen men who were not so very white in their principles in elections, and he had seen some who were perfectly white in principle, as he thought, who were not so

very light in their color. He was confident that the Convention had not intended to affect any rights of those entitled to them; of those who had been born and brought up in the country, who had suffered in its service, and contributed as much as any towards paying the expenses of the country. But if the word were left in, from what had passed, he was satisfied such a question might arise at every election for ten years to come. He therefore hoped the word would be stricken out.

Mr. *Jones* said that when he first made the motion he had not been led to it from the belief that it would make any difference in a legal point of view. He was satisfied that every Mexican and descendant of Indians would have the same rights with or without that word in the section. But he had seen a great deal of difficulty and embarrassment in various places in the Republic under a similar provision. He had seen objection made to Mexicans, descendants of Indians, and even to persons of a somewhat dark complexion, caused by the heat of a southern sun. It was with a view to prevent confusion that he wished the word stricken out.

The vote was then reconsidered.

Question on striking out "white."

Mr. *Hogg* said that he disliked to be troublesome to the House, as well upon this matter as upon any other. But he could not give his assent to striking out the word "white." As it is incorporated in all the Constitutions of the United States which he had ever noticed, he could not see any propriety in this Convention leaving it out, particularly as it had been contended by every gentleman who had spoken upon the subject that it was immaterial. He thought it was of some importance to retain the word: he was satisfied it would have a tendency to bar those regularly barred by the following provisions. Suppose a man deeply tainted with African blood should come up, how would you exclude him if the word "white" is stricken out? If retained, he will have to go back and prove his pedigree. He thought that striking out would hereafter produce considerable difficulty in barring those intended to be barred. He was as much opposed as any gentleman to excluding from the right of suffrage the aborigines of this country, who had participated in the revolution, notwithstanding they may have abused that privilege. But he was opposed to striking out this word. He thought it would look strange in the Constitution of Texas not to have it inserted.

Mr. *Navarro* said, that if the word *white* means anything at all it means a great deal, and if it does not mean anything at all it is entirely superfluous, as well as odious, and, if you please, ridiculous. He made no remarks with the idea that this question had any relation to the Mexican people, for they are unquestionably entitled to vote. By the application

of the word *white*, certain persons may be qualified, &c.,—and others, though as white as snow, yet not white by descent, be disqualified. That is to say, white negroes or the descendants of Africans, who, in the course of time become so nearly white that no distinction or scarcely any can be made. He was as much opposed to giving the right of suffrage to Africans or the descendants of Africans as any other gentleman. He hoped the Convention would be clearly convinced of the propriety and expediency of striking out this word. It is odious, captious and redundant: and may be the means at elections of disqualifying persons who are legal voters, but who perhaps by arbitrary judges may not be considered as white.

Mr. *Jewett* was in favor of striking out, otherwise you might exclude a large class of citizens clearly entitled under the existing Constitution of Texas. He did not wish to enlarge or diminish the present basis. If the word "white" be retained, by the construction of the judges of elections in different counties, the rights of this class of citizens may be abridged. A large class of Mexicans might not be considered white by some of the judges, though all lawyers will agree that they are so.

The word was stricken out.

Mr. Anderson offered an amendment, inserting the age of twenty-one years. Adopted.

Mr. *Anderson* moved to insert "provided that no soldier, seaman or marine belonging to the army or navy of the United States, shall be entitled to vote in any election to be held under this Constitution."

He thought no argument was necessary to convince the mind of the necessity of this provision. It was sustained by precedents, being contained in nearly every State Constitution in the United States. Without something of the kind, those who should be introduced here for purposes of defence, would be permitted to mingle in elections, without knowing the wants and necessities of the particular county where they might vote, and might frequently elect an individual to represent us in some office of the State, contrary to the express wish of the county.

Amendment adopted.

Mr. Cunningham moved to strike out "adoption of this Constitution," and insert "acceptance of this Constitution by the Congress of the United States."

Mr. President *Rusk* said that he should object to the proposed amendment, on the ground that it would seem to say that we did not consider annexation as completed. In his view we are now a State of the United States; all the conditions on our part have been complied with; and

we are a State without a Constitution. There is no State in the United States in the same situation. We are now *de facto et de jure* a State. This amendment would seem to contradict that idea.

He looked upon the matter of annexation as entirely complete: the United States cannot in justice refuse us: the moral sentiment of the civilized world would not justify them in saying that we are not annexed. the only condition to be performed, is to present a republican Constitution. The honor and faith of that government and people are pledged to us; and our government and people having accepted the conditions, the contract cannot now be inquired into.

Mr. *Brown* said that by referring to the 31st and 32d sections, it would be seen that the committee found no subject for alarm in the words "after the adoption of this Constitution by the Congress of the U. States." In two instances the committee on the Legislative department had thought proper to provide that certain things should be done after the adoption of this Constitution by the Congress of the United States: and he saw no danger in extending it to other cases. He believed that by our assent to the joint resolutions, there was a moral obligation imposed upon the U. States, which never could be justly avoided, to receive a proper Constitution from Texas, and admit her as a State. He believed the tie now existing between the two countries was one which could not be sundered by any rule of morality; that there was no moral precedent which would justify or authorize the U. States to withdraw from those propositions so solemnly tendered to us. But he spoke of the legal effect of things. If we belong to the U. States, the laws of the U. States are in operation over us. He thought it would be proper to prescribe at what time they should go into effect, for until the final action of Congress we do not belong to the U. States. He never heard of sovereignty being parted with by implication. It was a very rare act, and to be performed with the utmost caution and ceremony. Assuming the fact that we form a part of the U. States, yet he saw no danger in attaching some positive signification to the word "adoption" here. It might as fairly be presumed to mean adoption by the people of Texas, and more so, than by the U. States.

Mr. *Davis* proposed to substitute "the acceptance of the terms by the Convention."

Mr. *Van Zandt* should move to insert "its adoption by the people."

Mr. *Cunningham* said his object was to prevent the construction which might be put upon this clause. It might be considered according to its reading at present to mean adoption by the people. We are certainly not annexed until all the conditions are complied with. Persons who may become citizens of the Republic of Texas, after the time of the

adoption of the Constitution by the people, and before the conditions are fully complied with, are not provided for in this Constitution.

Mr. *Hemphill* said that if the Convention should refuse to adopt the amendment offered by the gentleman from Victoria, a large class of citizens would be disfranchised. All persons who have emigrated to Texas within the last three or four months will be unable to become citizens of the Republic. If they were to reside here even six months, without taking the oath of allegiance, they do not become citizens. And if the opinion of some gentlemen is correct, that we are a part of the U. States, they could not afterwards become citizens. Many of them would be obliged to remain in the United States the term of five years before they could become citizens. The argument of gentlemen that we are now annexed, and have become a portion of the U. States, is true in some respects; but he could not see how it is true in others. Though we might all of us believe here that we are fully entitled to all the privileges of a part of the U. States, yet unless the U. States should be of the same opinion, ours would be of no avail whatever. We have received no such information with regard to their views; and the last letter of Mr. Donelson says distinctly, that Texas will be considered an independent Republic until the final declaratory law is passed accepting our Constitution.

On motion of Mr. Van Zandt, the Committee rose, reported progress and asked leave to sit again. Which report was adopted; and

The Convention adjourned until 4 o'clock, P. M.

4 o'clock, P. M.

The Convention met pursuant to adjournment; and went into committee of the whole—Mr. Lewis in the chair.

Mr. Davis withdrew his substitute.

Mr. Cunningham's amendment was rejected.

Mr. Young moved to strike out "General Assembly" wherever it occurred in the report, and insert "Legislature." Carried.

In the 5th section, Mr. Love moved to strike out "two years," and insert "one year." Rejected.

In 6th section, Mr. Love moved to strike out "ballot," and insert "*viva voce*." Rejected by a vote of 19 to 26.

In the 7th section, Mr. Burroughs moved to strike out "twenty-five," and insert "twenty one."

Mr. Davis moved to strike out "at the time of the adoption of this Constitution." and insert "at the time of the first election for members of the Legislature." Rejected.

In the 9th section, Mr. President Rusk moved to strike out "one-third," and insert one-half." Rejected.

Mr. Darnell moved to strike out "qualified electors," and insert "free white population." Rejected.

In the 10th section, Mr. Forbes moved to strike out "in consequence of the first election," and insert 'at the first meeting of the Legislature." Adopted.

In the 13th section, Mr. Latimer of Red River, moved to strike out all after the word "years," being the clause relating to the payment of taxes, Rejected.

Mr. Burroughs moved to strike out "thirty," and insert "twenty-five." Rejected.

Mr. Anderson moved to strike out "and," between "State and "county," and insert "or." Adopted.

In the 14th section, Mr. Moore proposed to strike out the words "President, and" and the word "other." It will then read "the Senate shall choose its officers."

Mr. *Mayfield* thought the suggestion a very good one; and proposed to insert "President *pro tem.*" Adopted.

Mr. Jones moved to insert "of two-thirds" after "a majority." Adopted."

In the 16th section, Mr. *Love* moved to strike out "excepting such parts as in its judgment may require secrecy." His object was, that whatever the Senate should do, should be made public. He was opposed to secret sessions and action on the part of the representatives of the people; and that he called the republican doctrine, though some of his democratic friends might think otherwise. He wished them compelled to publish all their proceedings, that the people might know what they have been at.

Amendment adopted.

In the 20th section, Mr. Love moved to strike out all after "open." Adopted.

In the 26th section, the words in brackets, the office of postmaster excepted," were stricken out.

Mr. *Bagby* moved to strike out the 28th section entirely. He thought for his part, that no man nor set of men should be disfranchised: and did not wish any section of this kind to appear in the Constitution of our State.

M. *Moore* said he did not rise for the purpose of making a speech, but merely to observe that in the Bill of Rights which has been adopted, it declares that no man or set of men shall be disfranchised, but that every citizen shall exercise all the great political attributes of a freeman. Un-

der these circumstances can you now turn round and say to Ministers of the Gospel, you shall not exercise those rights? Why exclude them any more than lawyers, physicians, or any other set of men? It appeared to him that by adopting this provision, the Constitution would be made inconsistent with itself.

Mr. *Baylor* said: it seems to me, Mr. Chairman, that the argument of the gentleman from Harris cannot be sustained. In the Constitution lately adopted by the State of Louisiana, the same great elementary truths, so far as political liberties are concerned, are to be found. And yet, sir, we find that the wisdom and experience in that State Convention assembled, have adopted precisely such a clause as the one under consideration. I think the clause a wholesome and wise one. I do not think that any office coming directly from the people ought ever to be filled by the clergy of any denomination. I would as soon see a woman mingling with the populace at large, mounting the rostrum, and making stump speeches as it is generally called, as to see a clergyman engaged in business of this kind. Sir, the good and pious do not wish this thing; none but the ambitious, and they before all others ought to be excluded. There are sectarian jealousies and heart burnings enough among the various religious denominations of every country; and by opening this new field to human ambition, you will only make the breach between the different sects of Christians wider than it is now. I think, therefore, that the section ought to be retained. A great deal might be said upon the subject. It seems to me further, that it is calculated to keep clear and well defined the distinction between Church and State, so essentially necessary to human liberty and happiness. Sir, priests and kings, the former of every denomination, not the Catholic alone, have conspired in all countries and nations to enslave mankind. It has been a received maxim in Europe, that the king should govern the priest, and the priest the people. What have our fathers thought upon the subject? In many of the State Constitutions this clause has been inserted. It has been thought wise and proper by their framers. A similar feature is found in our present Constitution. In conclusion, I have neither the strength nor the ability to do justice to the subject: I therefore simply say that I hope the clause will be retained by the good sense of the House.

Mr. *Moore* said: every thing which I have heard fall from the lips of the gentleman from Fayette, has added to the veneration and esteem with which I regarded him. Indeed if it were possible to turn me from the position which I consider as the one indicated by truth and reason to be manifested, I might be swayed by his arguments and example.—But the more I have reflected upon this question, the more I have investigated the subject, the greater the reverence with which I have listened to the remarks of that excellent man, I still only find new arguments to

strengthen me in the opinion which I had first formed. He has alluded to the maxim that kings control the priests, and the priests the people. But this doctrine only prevailed in the dark ages of former times, when the people were grovelling in ignorance, and freedom was wholly unknown to the great mass. But, sir, would it become the enlightened legislators of the present day to act in accordance with this maxim of the dark ages, and in admitting it, to admit also the calumny involved in it? For that honorable man does not surely wish to say to the people of this age and country, that they, like those of former days can be swayed by the priesthood, that they are base and grovelling in ignorance, and that by this Constitution they should become serfs and slaves. No, sir. I believe better things of them: I believe that they are moral, intelligent, and upright, and fully capable of deciding for themselves who are fit to represent them in the halls of legislation, or upon the judicial bench, or in the Executive department of the country. Yes, sir: I believe fully in the principle that the intelligent and virtuous citizens of any country to be truly free, should exercise the great rights of suffrage freely; and do they, when you say to them that these men, the most virtuous and talented, the most distinguished for integrity and purity of character, shall not, if the people wish it, approach your legislative halls? What, sir: is their breath poison, that the freemen of this country should fear to hear the words of truth from their lips? What, sir, have we just listened to? Whose words are more respected here than those of the gentleman we have just heard? Whose sentiments are more worthy of respect? And did his fellow citizens do wrong in electing him, a Minister of the Gospel to this high station? By no means: we have profited greatly by his wisdom, by his experience: we are, I may say, controlled by his virtues. And if the day should ever come when a great and good man who may have been a Minister of the Gospel, but had so far gained the respect, esteem and confidence of his fellow-citizens, that they, not fearing that any of their great rights will be jeopardized, that his breath, like the poisoning Upas, will cast around him nothing but evil, shall elevate such a man to a high station: if that time should ever come, I shall be proud of it, the freemen of this country and throughout the world would be proud of it.

I have said, that if this provision is retained in the Constitution, it will be inconsistent with itself. So it is. We say here in the Bill of Rights, that all freemen have equal rights. What meaning do you attach to that: what follows from that? That every freeman shall be eligible to office. And now you would turn round and say to Ministers of the Gospel, these holy and pure men, you shall be shut out from the legislative halls of your country, because we fear that you will do evil. It is a reproach cast upon the people of the country. I will ever trust to the intelligence, the honesty and uprightness of the people to protect their freedom from the poisoning touch of the priest, or the combined influence of all the demagogues, the tyrants and the enemies of freedom throughout the world.

Mr. *Brown* said: he was rather astonished at the reasoning of the gentleman from Harris. He would ask if it was any more of an infraction of the Bill of Rights to say that priests should not participate in legislation, then to say that persons under twenty-five years of age shall not serve in one House, or persons under thirty in the other, and that minors and women should have no control over the government? The Bill of Rights consists of general declarations; it stands as the fundamental law, except so far as it is qualified or modified by the Constitution. He should offer an amendment: he was in favor of striking out one part of the section. He was in favor of excluding ministers of the Gospel from any participation in the affairs of government. He saw, however, no necessity of expressing a reason in the section: and if there should be any, he would have it a just one. If he should vote for the section, it was not for the sake of preserving the church pure and uncontaminated, but for the sake of political security. He would move to strike out that part of the section relating to their "dedication to God, and the care of souls."

Mr. *Henderson* said: I am in favor, Mr. Chairman, of the motion made by the gentleman from Red River. I shall support it, not alone because I wish to protect the intelligent ministry of this country in their rights, but because I consider in doing so I am protecting the great mass of the freemen of the country in their rights. If the subject of inquiry were this alone, whether by my vote here I would exclude one of those individuals who are called upon to do any service that may be required of others, from participating in legislation, or would extend to them the same privileges which we secure to ourselves, I would say that I was bound by conscience not to exclude them. But it is not a single question. The question is, will you trust the people of Texas to choose their Representatives, and gentlemen may disguise it as they please, to this we are brought at last. If we adopt the section proposed, we shall be saying to the people of Texas, you are unfit to govern yourselves; you shall not be permitted to choose your representatives from a class proscribed by us. I am not contending alone for the privileges of this portion of the community, but I stand up here as the advocate of the rights of of the great mass of the people.

We might as well exclude the lawyer, the physician, or the men of any other profession. We might as well say to the people, you shall not exercise the privilege of choosing from these classes. I have no predilections in favor of any particular religious sect; I am not actuated on this occasion by a disposition to give any denomination in particular any influence in this House. But when I look back at the former situation of our country, and look at the present state of things in Texas, I am compelled to admit that this class of men have done more than all others in the great work of reforming the community, in promoting the good order of society, and giving force to the laws by quieting the

turbulent spirit of our people. If we seek in the history of the last few years, the causes which have produced the changes which we see spreading all over the face of society, we shall find them more attributable to the ministry of the country than to the laws; we shall find the cause chiefly in the manner in which those laws have been adhered to and enforced. And I would ask any gentleman if he can point me to one single instance where the ministers of God have attempted to infringe the rights of the people? I would call upon him to say whether in this or any other part of this free land of America, this portion of the people have ever exercised their authority by way of attempting to control the political establishments of the country? Have they asserted the rights which in all human probability they might have done by hanging together? And even suppose that they had formed combinations of that sort, I would ask if there is any danger to be apprehended from that source? Have they at any time opposed the exercise of civil and religious liberty? Have they ever set up a claim to exclusive privileges? But what must be the mortification of some of these gentlemen, who have stood up here on the bloody field of battle, asserting and maintaining the liberties of their country? Will any one upon this floor say that they are unworthy the trust which the people might repose in them?

By adopting this section, we are saying to the people that they are incapable of self-government, and to the world that the people of Texas would select those persons from the ministry who would overturn their liberties.

But we are told by gentlemen that there is no better reason for striking out this than for striking out the provisions relating to age—as a qualification. I would ask if there is any parallel in these cases? We say that every citizen, when he shall arrive at the age of twenty-one shall be entitled to vote; at twenty-five, to serve as a member of the House; and at thirty, if he shall be chosen by the people, to act as Governor. Is there any similarity whatever? In the one case it is necessary to fix some age at which persons shall be qualified to vote, or eligible to office. All that I wish is this: that the people shall be permitted to choose the men whoever they may consider best qualified to represent them at the seat of legislation. All I wish is to be consistent, and say to the whole class of religionists and the sinners of Texas, that they are, so far as regards their political privileges, on an equality. Do we fear any invasions upon our liberties, divided as they are, into numerous sects? Where has there been any evidence of danger, where even any attempt of this kind? I have seen nothing of it; I have seen no attempt to subvert or abridge the liberties of the people of Texas, or to obtain exclusive privileges by any sect which has prevailed in this land; nor do I expect it. But what will be the consequence of adopting this clause? Will it not be just to excite the opposition of a large and respectable class of the people of Texas against the Constitution we

are about to make? I say it is against the spirit of republicanism, I will not say democracy, that such a clause as this should be incorporated into the Constitution, for disfranchising men who are declared by the Declaration of Independence in the United States to have equal rights with all of us. It is against the provisions and spirit of the Bill of Rights, and an attempt to take away principles not only from this class of citizens, but from the people. In voting as I shall vote upon this question, I consider that I shall be taking nothing from God that is his, nothing from Cæsar that is Cæsar's; and that I shall only be giving to the people of Texas the things that belong to the people of Texas.

Mr. *Davis* said: The only reason why I rise, Mr. Chairman, is that during my canvass in Liberty county I was accused of wishing to unite Church and State, in consequence of my opinions upon this subject among others. I deny that it is uniting Church and State to permit ministers of the gospel to participate in the legislation of the country. If we exclude preachers on this ground in consequence of their possessing certain religious tenets, should we not for the same reason exclude all other individuals who sustain the same tenets? What is the difference? If an effort is desired to be made by the religious portion of the community to unite Church and State, may it not as well be made by the members of the churches as ministers of the gospel? If we are to exclude ministers of the gospel for the purpose of preventing that dreaded union, let us go the whole length, and prevent every individual who has any religious creed from being eligible to a seat in the Legislature of the country. Are there not, in the various religious denominations, men of as much intelligence and probably more than is to be found in the pastors of their churches? Again, as has been remarked, this section is in violation of the Bill of Rights. We have there declared that all have equal rights; and I do contend that no individual should be prohibited from filling any of the offices of the State, unless he has been guilty of a gross violation of the laws of the country. But, sir, I would ask if it is a crime to be a minister of the gospel, to teach those doctrines which moralize the community more than any thing else? It is not, sir. Gentlemen tell you that it is equally a violation of the Bill of Rights to require an individual to be twenty-five years of age before he shall be permitted to sit in the Legislature, and so on. Now, sir, I would ask you, when every individual in the community arrives at that age, if he has not equal rights and privileges? This is not giving one man exclusive rights and privileges: when every individual arrives at the age designated, he is entitled to the same. But they are endeavoring to prevent ministers of the gospel from ever being elected to this office. The distinction, sir, is a marked one.

On motion of Mr. Van Zandt, the committee rose and reported progress; and the report being adopted, the committee adjourned until to-morrow morning at half past eight o'clock.