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Tuesday, July 22d, 1845.

Half past 8 o'clock, A. M.

The Convention met pursuant to adjournment.

Prayer by the Chaplain.

Mr. Gage offered the following resolution:

Resolved, That the committee on Printing be instructed to contract for — copies of the New Era, weekly, containing the journals of the Convention, for the use of its members;

On motion of Mr. Davis, the rule requiring the resolution to lay on the table one day for consideration was suspended.

On motion of Mr. Gage, the blank in the resolution was filled with 1,500, and the resolution, as amended, was adopted.

The President of the Convention appointed Messrs. Mayfield and Caldwell to wait on ex-President Lamar, and invite him to a seat within the bar.

The report of the committee on the Legislative Department was taken up.

On motion of Mr. Baylor, the Convention resolved itself into committee of the whole on said report—Mr. Baylor in the Chair.

The amendment offered by Mr. Brown to the 28th section, was under consideration.

Mr. Love addressed the Convention as follows: I think, Mr. Chairman, that I should have been better able to speak, had I attempted it on yesterday, as I intended. But I feel it my duty, not only to my constituents, but to the community at large, that I should express my opinions upon the subject. I am opposed to striking out that clause, or in other words, to the legislation of priests. I yield to none in my respect for the religious denominations of the country as a class, and those who minister at the altar of the most High God. And it is because I entertain this respect for them that I would exclude them from a participation in these things; which can result in no good; and must inevitably result in injury, whenever and wherever it is undertaken. And though the spirit of the age has broken up old established principles to some extent, and though it is gravely asserted here in substance that the Constitution of the United States is antiquated; that the public mind at the time of its adoption was not sufficiently enlightened and sensible to advocate the principles of liberty in their proper enlargement; yet, sir, I did not expect, whatever objections might be found to that instrument which has successfully conducted the United States from a small beginning to the position of a great and mighty empire, that there could now be attempted an invasion upon what I consider the established duties of the ministers of every religious denomination; that it would be openly asserted, that

they are to be introduced into the Legislature of the country. It is urged that there is danger in what is called an attempt to curtail the privileges of any religious denomination, or in other words, that you will carry against you the influence of these sects with the priesthood at their head. So far as I am concerned, this has no terrors for me. My line of duty is plainly marked out, whatever may be the consequences. It is the solemn duty of a member of the Legislature, and more especially of this Convention, to express freely his opinions, be they palatable or not to one denomination or another. If we take a view of the history of religious denominations, we shall find that the corruption of the church has had its origin in the disposition to meddle in matters in which it had no concern. The ministry of Christ are solemnly dedicated to God, and set apart to his holy service by the imposition of hands: the line of their duties is clearly marked out in the admonitions of our Savior to the Apostles, when they were first sent out, without scrip or money, to teach the nations of the world the service of the living God. But we are told that it is an infraction of the rights and liberties of this class to exclude them from the halls of legislation. I think differently. When once they have taken upon themselves the discharge of their holy and solemn functions, so long as they are disposed to continue in that high calling, I would have them confine themselves to the object for which they were set apart; and if they profess the service of the world, let them put off their sacred office, and I have no objection, then, to their coming to the Legislature and expressing their opinions like any other individual in the community. I remember, in conversation with the Catholic Bishop in our city, who is a wise and good man, and whom I have frequently interrogated upon matters relating to his church and the churches generally, he has expressed the opinion that any interference on the part of the church with the civil authority, must always produce corruption in religion. He instanced the church in Mexico as an example. He stated that there was not a Catholic, within the U. States, or, to his knowledge, in Christendom, who did not desire that universal religious toleration should prevail. He said further, that the power of government should never be brought to bear upon religion, nor should religion ever be permitted to exercise a control over the government; for when such a connection is allowed to subsist, the corruption of the church is its immediate result. He mentioned one thing which I had not known, that until the reformation was brought about in England, the priests had no salaries, except the sums collected from voluntary tithes; the government paid nothing to the ministers of the gospel, and they had public schools, supported charitable institutions, and all without connection with the government. And the very moment that the government interfered and took upon itself the appointment of the clergy, and the regulation of their salaries, the pride and pomp of station led them to overlook their divine precepts by which all persons professing the religion of Jesus should be governed. What was the occasion of the

Protestant agitation in Europe? It originated in the corruptions of the church governed by kings, deteriorated in a thousand instances by the conduct of the head of the church and the constant abuse of power.—The Protestants marked out a different line of policy. They said it was wrong to unite church and State, wrong that the law should settle the rule of faith, and regulate the religion of Jesus Christ. They would not admit that men should be subject to human authority in matters of opinion: they denied the right to control the conscience, and claimed the right to worship as they pleased; although they submitted to the authority of the law, necessary to prevent crime and preserve the good order of society. This was the cause of the success of Protestantism in Germany, and in every other country where it gained any foothold at all. We are told, however, that there is no religious political party in the United States; that no danger therefore can possibly arise from permitting ministers of the gospel to become legislators. Now I remember, that if there is not such a party in politics, at least there is a party who have proclaimed it as policy that such a party should be established. I remember the declaration made on this subject by Dr. Ely, of the Presbyterian Church, a few years ago, in the paper which he edited. From that proceeded the Sunday mail project. The members of every denomination organized to effect the abrogation of the laws authorizing the carrying the mail on Sunday. This was an attempt to control the government and the people from religious motives exclusively. That question was set at rest by the celebrated report of Col. Johnson. Now whatever may be my respect for the Sabbath, and my feeling with respect to the propriety of keeping it holy, still I have not the right to control the consciences of men who think differently, or the action of the government, though in opposition to the wishes of the majority of those who profess religion in the land. And there is now, sir, even in the city of New York, a great religious excitement, or as they say, a Bible party is forming, for the purpose of compelling the use of Bibles in the public schools, whether parents wish it or not. There is one class of Christians who think that the Scriptures, if placed in uninstructed hands, may lead to evil; that they require to be explained, and wish the great principle of morality also to be taught in the public schools. But whether the principle is right or not, it is an act of tyranny to compel any denomination to use any book whatever at school. There is an attempt now making to array power against the Catholics in the United States. It has proceeded to the burning of convents and churches by mobs. Now this attack upon any religious denomination whatever, is evidently injurious to liberty. For whenever you array religious parties in opposition to each other, especially in legislation, no power, no arm can stay the tumult; because they each contend that they proceed upon the dictates of revelation itself. I would call attention to the effect that would in all probability be produced in this country, if we should strike out this section: I do not say it will now arise

because such is the constitution of society at present, that no predominant sect can control legislation. But I do not know what the future may bring with it. Some sect may become predominant, and a majority of its priests may be assembled in your halls of legislation, giving laws to the residue. Possibly this Constitution may endure fifty years, more or less. Is it not then the dictate of wisdom to provide, while you may, against an evil which may arise hereafter? You may have here in one corner the Cardinal with his red hat, in another the Bishop with his black gown and surplice; you may have the Quaker with his broad brim, the Mormon elder, the Methodist preaching free grace, the Presbyterian predestination, the Baptist immersion, and other sects contending for sprinkling: and one cannot make a solitary allusion that will not stir up sectarian excitement and passion, and create a war of religion in your halls of legislation, in place of grave deliberation upon appropriate subjects. In the midst of them I fancy that I see my friend from Harris; and I think God intended him for a preacher, and will yet call him to that holy work: I think I see him rising to speak after the Cardinal with the red hat, or the Bishop, or the Mormon prophet. He would say: with all due deference to my right reverend friend, for whom I entertain the highest respect, yet his doctrines are based upon the old Federal notions of '98. What would be the response? If his opponent were of a meek and humble spirit, he would say, it is the fate of religion to be persecuted, and the servants of the Lord shall have a railing accusation brought against them; I forgive my brother as a Christian, but he is mistaken, and may the Lord deal with him as his accusation deserves. But if he is made of a more inflammatory material, he will at once pounce down upon him as a heretic, and denounce him as one who knows nothing about the true faith in religion and legislation. At last, after every one has expressed his own opinion, after all have expatiated upon the doctrines of free grace, predestination, immersion or sprinkling, the Mormon will rise and say, I am the prophet of the Lord: ye are all heretics, and I utter against you the sentence of damnation; you are all wrong, whilst my revelation is directly from the Lord. You may say this is fancy: but I tell you it is not so: in all probability such a state of things will arise, unless prevented by your action here.

The Mormons, or any other denomination may settle in a country and control it, and thus you may intime have a majority of priests legislating here for the balance of us sinners. God help us, I say, when that shall be the case. There is one thing: if a man who dedicates himself to the service of God as a teacher and preacher, is disposed to depart from his profession to mingle in the strifes of this world, he is a hypocrite. His mind will be called from the service of God to wander over things carnal, things not belonging to the duties of his calling. It is a sin, sir. I would ask you, if our Savior were again on earth, to judge and pass sentence upon these men mixing in the turmoil and business

of the world, would he call them Christians? Would he not say, depart from me ye cursed? As sure as I live he would utter this denunciation. They may deceive the world; but the all searching eye of God knoweth their hearts, and if they are true to their profession and calling, he will give them grace to continue in it. If they are false teachers, and they alone wish to mingle in the strifes and passions of the world, they can do nothing but evil, and not a particle of good.—

What do they want to come here for? To pray for us when we get excited in our minds and do things which we ought not? One might get up and say, brethren, let us pray: but the Shaker would get up and say, let us dance: and the Mormon, war-like as well as saint like, would have his particular proposition to advance.

Now, whenever you encroach upon the line of duty, or throw temptation in the way of frail humanity, (and one of the best parts of the Lord's prayer is that which says, lead us not into temptation,) wherever you hold out to these ambitious gentlemen the allurements of fame and office, the hope of political preferment, such is the propensity to evil in human nature, that a great many of them will fall into the snare. Therefore, as one of those who respect religion, and believe that they have done a great deal of good, I would by no means place temptation in their way unnecessarily. We are now told also, and it is very true, that the preachers of Texas have done a greater amount of good than any other class. I grant it: and they have my heart-felt gratitude. In no country has there been a set of preachers who have more zealously striven to do their duty; and they have done it. Why have they done it? Because they have not mixed politics with religion. If they had been permitted, and had done so, would we have had the same respect and confidence in them that we have now? I would ask if their influence upon the mind is not invariably lessened whenever we see these gentlemen quit of their way, and doing or saying things not belonging to their profession. They should be kept holy. I venture to say, that whenever they have departed from the line of duty prescribed for them, they have done injury to the cause which they have advocated, and the principles promulgated by the Savior of the world. If they desert the service of God in the ministry to take part in the affairs of the world, they thereby lessen the confidence of the people in them, and their respect for their holy calling. They induce the feeling that they are men of like passions with us, or why would ambition find its way into their hearts? The only ambition which they should have, is that which the majority here do have, that of bringing the wicked to the feet of the Lord. They would rather bring one repentant sinner to the feet of the Lord, than to utter a speech here which would have the acclaim of admiring thousands, if good men: and if not, they have no business to come here to aid in forming the opinions of the community, while they are professing one thing and practising another.

There was another remark which I will notice, that if you exclude

ministers from legislation, you will create a party against annexation. Why, sir: if we admit the truth of this declaration, it affords the strongest possible reason why they should be so excluded. If they as a party would attempt to exercise any such control over the people as to stir up opposition to this most desirable measure, simply from a selfish feeling like this, it is a very strong argument to show that they ought to be thus shut out! If they could so far forget the principles which they advocate, and the admonitions and warnings which they give from day to day to their brethren in the church and those who listen to them, as to interfere with a matter necessary to the public good, merely because they alone are excluded from the halls of legislation; if they should display so much selfishness, meanness and wickedness, as to do this, then they ought by all means never to come there! I have never, sir, known a minister of the gospel who desired a change upon this subject; and I have never heard one single individual of that class express a wish that the law should be changed, so that they might become eligible.—If they do their duty, they have enough to do: they have no time to attend to legislation, which can be attended to very well without them. Now there are good and bad in all classes. There was a right Reverend Mr. Clark at Galveston, who belonged to a denomination, which has done more good than any other in America, the Methodists: because following the precepts of their founder, they have travelled into every valley, and gone into every hut to make converts: and who, together with the old Baptists, always true to their country, and always teaching the doctrines best for the country, have done more, in my opinion, than all the others combined. This Mr. Clark was at my house; and I declare in the presence of God, that he was the only man that ever ate at my table, who I wish had never eaten there. He went to the North, after he had gone like a wolf over the country, and there reviled us before the Methodist Conference, abused us without stint of measure, and took an active part in the discussion of abolition, and the denunciation of slaveholders. Is it not necessary to guard against such men? This man could have gone into any country, and been elected to your halls of legislation, if he had chosen to do so: he was plausible and sensible in his manner: yet he was a vile slanderer, who did not hesitate to deceive and betray those who confided in him. I will mention another instance of the folly of ministers mixing in the affairs of the world. In San Augustine, one right reverend gentleman recently shot another on account of some immaterial difference of opinion about a worldly matter. They have no business to mix with the affairs of the world any more than is necessary; if they do, they invariably fall into wickedness and ruin. I am not to be debarred from expressing the opinion boldly, I care not what the consequences to me as an individual, that they are the most unfit of all persons on the face of God's globe for legislators. I will tell you why, sir. As among the rest of mankind, there are a great many fanatics among them; men who would go voluntarily to the stake, and die

in the belief that they were acting under the immediate inspiration of Almighty God. Let a passion arise in the bosoms of these men acting under this fancied inspiration, and you cannot tell the consequences. Look at the religious cruelties practised by the Spaniards in South America and Mexico. You may search the history of religious sects, and it is everywhere the same, except in the United States, of America. Give any sect the predominance, and these consequences will follow, and there is no telling to what extent. They will quote the Scriptures, and misapply God's word to answer their own purpose, to justify their wrath against the vile heretics. Whenever you adopt a principle which will give any of them the control in your legislative halls, your liberties indeed will be gone. Our only chance for security and preservation might consist in the fact, that they are split up into various denominations, so that these who belong to the devil, might perhaps escape their ire and their wrath. It is said that we proscribe them; I say we do not. We have just as much right to ask to go into the pulpit, as they to claim the right to sit in the Legislature. The argument of the gentleman from San Augustine does not apply. He says we might as well exclude lawyers, or persons of any other profession. There is a radical distinction, sir. Lawyers and doctors are no better than they should be; while they are, or at least, profess to be better than the common class, profess to have given up all to the service of God, and subjected every feeling of ambition in order to confine themselves strictly to the line of their duty. Not so with lawyers and doctors. I believe that mammon is uppermost in their minds. Perhaps they are as patriotic as others, but I have never yet seen one of them refuse his fifty drops. We don't see these classes of the body politic mixing much in religious strifes. It would be just as improper that they should be permitted to interfere with religious matters, as that any religionist should be permitted to mingle in their affairs. There is no proscription in this: because, if these men love the world better than they love God, they have nothing to do but to come out where they belong; and if they do not, they are doing God a disservice, and man an injury. Now I would ask what good can possibly arise from changing the established rule of action in this country upon this subject? I believe it is admitted that in most of the States preachers of the gospel are prohibited from participating in the legislation of the country. They have submitted quietly to this regulation: I have never heard a word of complaint against it. It is a good rule, always to let well enough alone. They had better confine themselves to the work to which they have dedicated their lives, leaving matters of the world to the world.

Mr. Brown said that he should record his vote in support of the declaration he made on yesterday, unawed by any consequences which might result from doing so. I know, he continued, that it is a judicious course in political life to be attached to the most numerous party; or

where the majority is sunk in indifference and apathy, to side with the smaller party, if alive to a particular interest.. But I shall not be governed by motives of expediency. Be the consequences what they may, though I draw down upon my offending head the whole wrath of the Apocalypse, I must pursue the course which I have intimated. I am opposed to the prevailing spirit of the times, in accordance with which, if any political matter is under discussion, if any election is to be had, if we are to select any officer, however obscure the office or mechanical its duties, every thing is to be referred to the people; and all because the last advices from the fountain head, of democracy require it. It seems, sir, that by way of compliment, by way of recompense to those who sent us here, we are to restore back to them the powers they have just conferred upon us. Without a government, they have sent us here to form one, and out of compliment to them and for the sake of democracy we are to leave them without a government yet. Sir, there is nothing more revolting to my sense of justice, nothing more incompatible with my political principles, than this corrupt tenet, *vox Populi, vox Dei.* When the will of the people is fairly ascertained, when it is deliberately and solemnly determined, this maxim may be regarded as generally true; but, sir, it is the office of the demagogue, and not the duty of the statesman, to seize on every transient prejudice and do the people a mortal injury while he holds out the words of flattery to their ear.. Sir, in religion and politics I am for conforming to fundamental principles. I will never depart from any safe and wholesome rule for the sake of carrying favor with the few who may feel the injurious operation of that rule, or for the purpose of escaping any responsibility whatsoever. I believe that ministers of the gospel should be excluded from the Legislature; I believe it consistent with the Bill of Rights that they should be so excluded. The same Constitution which provides that ministers shall be excluded, provides also that Indians, Africans, minors and women shall be excluded. I know not how it would be possible to erect a government for the general advantage of the whole without depriving some few individuals of their natural privileges. Because all men have certain natural rights, it by no means follows that they are all entitled to equal political power. Political power is the offspring of society. The Constitution governing that society as its fundamental law is adopted by the majority for the general good; and if the general good has to be effected by a sacrifice of the few, that sacrifice must be made. Every man when he enters into society is shorn of some of his natural rights; and if that society requires that some should be invested with more privileges than others, they generally are so invested; it is made the duty of one to submit, and the duty of another to prescribe. The gentleman from San Augustine, for whose disinterestedness and sincerity in all matters, I entertain a high respect, says that this is dictating to the people; that it is saying to them that from a certain class they shall not select their representatives. Now, sir, is it any more so than to tell

them that they shall not send a man under twenty-one years of age to the lower House, or one under thirty to the Senate; or that they shall not be represented by an African or Indian? If there is one case of dictation in the Constitution, there are five or six others beside. It is very probable that the people never would elect a minor or a woman, an African or an Indian, and very probably they would never send a preacher; but in these four instances enumerated they are debarred from doing so; and if gentlemen will not sustain the Constitution in this point to guard the people in their selection, they had better take away all restriction; and leave it to their constituency to cull their representatives from the world at large. It is asked if lawyers and doctors might not be excluded with equal propriety? I say yes, if the public good requires that they should not participate in legislation, proscribe them; and I for one will submit to the proscription. But I fancy, sir, that if we framed a Constitution making doctors and lawyers ineligible to seats in our legislative halls, the people would very soon call another Convention, and perhaps in their extreme zeal to cure their error, would have a Constitution declaring that none but lawyers should be there. It is an offence and stigma upon some when seeking office to be called lawyers; but, sir, I wish the offence were a graver one against me. I wish I were a better lawyer than I am, that the accusation might fall more heavily against my character than it does. For, sir, from my experience here I am well satisfied, notwithstanding the large amount of talent and experience brought to this body from different avocations in life, that in some instances the great hope and desire of this nation would have been placed in imminent jeopardy, if lawyers had not composed a part of this body. In two several instances, which I can call to mind, I have seen my friend from Washington, and yourself, sir, stand out prominently as light houses in the midst of the stream, waving us back from the rocks upon which we were about to be wrecked. I have seen propositions on the point of passing before this body, seemingly judicious in themselves, which conflicted word for word with the Constitution of the United States. In two several instances I have seen that danger pointed out, and provided against. Sir, the law is a science which draws within its vortex all other arts and all other sciences. Not one sound and serious charge can be made against it. It is followed, however, by a great many who are not proficients, and I take a very large share of this accusation upon myself. Now it is declared in the Bill of Rights, and in our own Constitution, that no preference shall be given to any religious sect. And while you record that principle in this instrument, gentlemen would place in the power of the people the means of directly exercising a preference. I would ask if there were a surplus fund belonging to the State to be distributed, and parties on political questions were nearly equally balanced, whether the minister who should have a seat in the Legislature would not endeavor to secure for his denomination the lion's share of it; whether instead of proceeding in the duty

assigned him by his station, instead of thinking, and working, and deliberating for the public welfare, he would not be providing for his society? And I would ask if any party could depend upon his fidelity when such a reward should be held out for his apostacy? No, sir, I would not trust them. I am willing that they shall go into the world and preach the doctrines of the Saviour; I am willing that the law shall accompany them in their march and defend them from interruption by any body. But, sir, religion and polities are things which must ever run in parallel lines, which being produced ever so far can never meet; for whenever they meet, there is contamination, and religion has in it much more of earth than heaven. If accused by a minister of any denomination for fixing upon him the stigma of disfranchisement; if called upon face to face to justify myself for the vote I shall give, I would defend myself by the very principle which he publishes every Sunday to the world. I would tell him he could not serve God and Mammon. I would point him back to the life of our Saviour. I would point to his humble origin, to his meek and lowly progress through life, to his pure doctrines and his holy life; who shrank from, and at all times avoided the contamination of the world; who traversed the world every where, beset by the most powerful allurements, and yet he declared that the foxes had holes, and the birds of the air nests, but the Son of man had not where to lay his head. Mr. Chairman, if in the exercise of this power, of this right to fill office, it should happen that some man, actually good, should come into possession of it, I call upon the reflection of this body to sustain the assertion, that the pursuits in life of the pious ministry are such, that the business of propagating the word of God is such, that if well and properly pursued, they lead the mind away from the affairs and business of life, and render it unfit for political responsibility. It is declared on the face of revelation itself, that the children of this world are wiser in their generation than the children of light; and if we make any application of this passage at all, it would seem to indicate that temporal men should govern in temporal matters. I am not willing upon any consideration to relinquish the principle that Church and State, by every mode that can enter into the imagination of this body, should be kept separate, that neither may become corrupt, that religion should have its powerful sway and beneficent influence over private life, and that political affairs should rest in the hands of political men. This, sir, is a discrimination which I feel bound to observe. It seems to me safer and better for the institution of religion and better for the institution of government, that the two bodies, both grasping at power, both capable of forming combinations, formidable to liberty on the one hand and to religion on the other, should be kept forever separate and distinct.

Sir, I shall vote for the exclusion of ministers from the Legislature, and I believe that the enlightened and truly religious will justify and vindicate me in the vote which I shall give.

Mr. President *Rusk* said: The section here as it stands, Mr. Chairman, would exclude ministers of the gospel from occupying seats in the legislative halls of the country. The gentleman from Galveston (Mr. Love) has given us an able and eloquent argument in favor of their exclusion; but I think it based upon erroneous premises. The Constitution of the United States does not exclude preachers; nor is it always the case that when they turn politicians, they become hypocrites. This is confirmed by a reference to facts. A very able Senator of Georgia, one whose firmness and ability have done great service, Walter Colquitt, is a minister of the gospel, and has been such for the last ten or fifteen years. There are many such examples. And moreover, many preachers turn hypocrites who do not turn politicians. The gentleman instances an individual who came here, enjoyed our hospitalities, and then went away and slandered us. I do not think this any argument at all; and if so, I believe it would better apply to some legal gentlemen. The same might be said of the instance of the preacher who shot at another. Some of the arguments adduced in support of this section seem to me to be brought forward at a wrong time in the history of the world. There has been some declamation against the dangerous influence which the ministry might exercise. Now, sir, the time has been when the people were ignorant and easily misled by the improper use of their office and position on the part of preachers of the gospel. They were looked upon as something sacred, as above the frailties and errors of human nature; they were believed not to be actuated by the same views and passions which governed their fellow men. In those times there was very great danger to be apprehended from the exercise of their influence. That they are tyrants, I do not agree; I think like other men; if you give them power, they want more; and man is a dangerous animal to trust with power. Let us pursue the argument. We cannot change their nature; and the history of the past, and every confidence in the truth of what they preach, induce me to believe that you might as well attempt to call back the waves of the ocean as to strive to stay their progress. If there is danger of their becoming politicians and exercising an improper influence, I would ask where is the greater danger, to have them in or out of the Legislature, if they are disposed to mingle in politics? I am inclined to believe, that if this clause is stricken out, there will not be three preachers in the Legislature of Texas for the next ten years. But nevertheless if the argument is correct, if they have a disposition to enter into politics, and to exercise a control over their fellow men, that disposition will still remain. And is it not a powerful argument in their hands that they are singled out by the framers of the Constitution, for exclusion from the privileges given to every other class in the community? If they have this mighty influence, and become ambitious, will they not then annul this obnoxious article which excludes them from sitting in the Legislature? Can they not say that this Convention has put a gag in the mouths and a bar in the way of the people?

That they have been deprived as far as possible of their right to a free and unbiased choice? They would assail you; and they would have just grounds for it. For you have said in the Bill of Rights, that no citizen shall be deprived of privileges, or in any manner disfranchised, except by due course of the law of the land. Are they not hereby deprived of some privileges? And will not this afford a fair pretext to assault your Constitution? Gentlemen are mistaken in regard to precedents upon this subject in the history of the States of the Union. The Constitution of the United States does not exclude ministers of the gospel; and I will venture the assertion that more than one half of the Constitutions of the different States of the Union do not exclude them; and what great danger has ever in consequence manifested itself in that country? I believe this doctrine was first advanced in the State of Tennessee, in a time of great excitement. In Georgia, they go to the Legislature, and no great harm has been the result. They have not attempted to exercise any improper influence there, or in any of the States where they enjoy this privilege. It is true that Mr. Ely made some such attempt; but he endeavored to stop the Sunday mails. And who was Mr. Ely? He was a man of powerful mind, at the head of a powerful denomination, with the command of gigantic means. They made a strong attempt; and what was the result? Defeat; most shameful defeat; a result to be expected from the intelligence of the people of the United States. And are we willing to say in our Constitution that we anticipate less intelligence in our posterity than is to be found in the U. States?

I shall vote against the amendment now proposed, because I intend to vote for striking out entirely, upon these principles; first, that I do not believe that the clergy will attempt any improper or dangerous exercise of power; secondly, I believe that the good sense of the people of Texas, if they make any such attempt, will at once defeat it with shame and disgrace to themselves; and I am not willing to withhold from any set of men privileges granted to another.

Again, so far as I can, in conformity with any idea of government at all, extend to the people the power of selecting those who are to govern and make laws for them, I wish to put no prohibition upon their free right to select for office whom they will. And upon still another ground, because I do not believe if this section is stricken out now, that the present age is in any danger, and I do not wish to take upon myself unnecessary trouble. If those who come after us shall find from experience that the absence of this article is deleterious to the cause of good government and the principles of liberty, I have sufficient confidence to believe that they will be intelligent and patriotic enough to insert any clause which may be necessary to guard the great principles of republican government.

Mr. Van Zandt said: I fear, Mr. Chairman, that the committee is already anxious to see the debate terminated, and the question taken up on the amendment: but as I shall be called to vote upon this subject, and as it is one in which I feel some interest, I shall beg the indulgence of the House to make a few remarks. This provision of the bill now under consideration, interferes, as I conceive, with no portion of the Bill of Rights. The portion referred to is that which declares that no citizen "shall be deprived of privileges, or in any manner disfranchised, except by due course of the law of the land." Now I cannot conclude that this provision in any shape or form contradicts or conflicts with that article. What is meant by due course of the law? We assert in the first article, that all men are born free and equal, and are entitled to equal rights and privileges; and then we go on in the construction of the organic law, and prohibit individuals under thirty years of age from serving in the Senate, and those under twenty one from voting or being elected to a seat in the lower branch of the Legislature. And we proceed in the same way to exclude ministers of the gospel. I would ask gentlemen to show the distinction: I would ask them if it is not as much an infraction of the Bill of Rights in the one instance as in the other? But as it says, "except by due course of law," I conceive that by no manner of construction can this provision conflict with any portion of the Bill of Rights. The question is then simply one of expediency: is it expedient to admit ministers of the gospel into the counsels of the country?—That is the question: and it involves none of the great principles of liberty, it embraces no question except that of expediency. We say that it is not expedient to have in the Senate men under thirty years of age: we require in that grave and deliberative body men in whom the fire of youth has passed away, men of mature judgment; and we take maturity of years as the best criterion by which to select them. And so with regard to others: fitness for office is taken into the account. When we exclude felons, it is on account of their unfitness: in other words, because it is inexpedient to permit them to hold office. We do not thereby say that all who are excluded are therefore to be ranked with felons. By the same course of reasoning it would follow that all persons under thirty, under twenty-one, and the ladies of the country are on a par with felons. For females and young men are equally excluded. I have ever believed, and attempted to act upon the principle, and it is true in religion and political government as in every thing else, that unity of design is the secret of success. Man, with his contracted powers, is seldom capable of grasping more than one science: or rather, he is more likely to succeed in any particular study or pursuit in life, if he makes it his sole occupation; and by scattering his efforts, they almost always prove fruitless. Look at the material universe which surrounds us: we have but one sun to give us light by day, but one moon, to enliven us by night: each particular star has its sphere and its own particular part to perform in the economy of nature. So it is with man. He has his

particular orbit around which to revolve: he has his particular duties to discharge. And it is rare in this world to meet with a universal genius: it is an old adage, that a Jack at all trades is good in none.— Whenever you find a preacher dabbling in politics, in nine cases out of ten, you will find that he is neither fit for church nor state. Whenever they descend from the sacred desk, and mingle with the rabble in the street and around grog shops, their usefulness is paralyzed, and they are but common men in the community. Take up any of the pursuits of life, any of the learned professions, and see who have succeeded. Take the science of medicine, for example: are they not those who have devoted the years of a long life to the pursuit of that particular branch of study? Never would history have written the lives of these men in such shining characters, if they had diversified their pursuits, if they had divided their attention, among different objects. Take the profession of the law: where do you find such men as Ellenborough, Marshall, or Story, men who have devoted years to a solitary and isolated study? Where such Statesmen as Calhoun, Webster, Sir Robert Peel or Lord Brougham, men who have devoted a lifetime to study and acquisition? It is true there some few occasionally called to politics who have spent a portion of their lives in the study and practice of the law: but they are in keeping and convertible, the one with the other; for no man can become a great statesman until he shall have learned in the study of the law the rights upon which the state is founded. What is the case with divines? Where do you find such men as Wesley, Scott, or Buscom; the admiration of various countries throughout the world, men who, from the time of their conversion, devoted themselves with untiring ardor to their sacred duties? In all times, and under all circumstances, sir, it is a well settled maxim, that in the unity of design is to be found the secret of success. But let us examine another view taken by the gentleman from San Augustine: that we are more indebted to the preachers of Texas for our moral reformation than to any other class. I cheerfully accord the truth of it. No class has done more or so much to sow the seeds of peace and righteousness in this beautiful land. And why, sir, is this so? Is it because they have participated in legislation: because they have mingled with the rabble surrounding the groggeries, electioneering with voters? No, sir: it is because they have been devoted to the functions of their ministry: it is because you have had this wise provision in your Constitution; that ministers of the gospel being dedicated to God and the care of souls, should not be eligible to a seat in either branch of Congress. It is to this that we are to attribute their usefulness. I ask then, will you call them from that holy vocation, will you invite them to leave the path of peace and happiness, to engage in the tumults and strifes of a political life? Preachers of the gospel, like all others, are only mortals, and frequently misled by mortal things. You will remember that important portion of the Lord's prayer, which has been alluded to: "lead us not into temptation." I

ask if preachers of the gospel are less liable than others to temptation? Is it not the nature of man to be liable to error: and if you hold up these inducements to them, are they not likely to be misled? I, for one, say "lead them not into temptation." Their office is higher than any that we can confer, and I would not divert them from its duties. Again: is it not natural when the danger is over, and the storm gone by, and all is peace, that we should neglect to prepare for a second appearance of the tempest? When priesthood became troublesome in former ages, when it established the inquisition, when the priesthood was controlled by kings, who through them governed the people, when the blood of martyrs cried continually for vengeance, then all felt the evil in all its consequences. Gentlemen tell us this time has gone by. True, it has gone by: the people have risen in their might, and thrown off the bondage under which they groaned for centuries. Then I say let us provide against the return of such a state of things. If we again open the door, we shall find ourselves involved in difficulties. It is best for the people to be careful of their safety, to protect themselves betimes against danger. You may believe you have killed off the Hydra, whose winding folds encircled and strangled the genius of liberty in her cradle: that you have cut off all its heads. But I tell you, when you strike out this section, you are but preparing the way for the birth and nurture of a young Hydra, which may strangle liberty in her full growth. The question is an important one; one that involves perhaps the safety and future welfare of the people of the country. I am for keeping the ministry within their proper sphere: there they will be profitable and useful, useful not only for time but for eternity.

Mr. Evans: We have int his section, Mr. Chairman, two distinct propositions: one of which, that ministers of the gospel, being dedicated to God and the care of souls, ought not to be diverted from the performance of their sacred functions, it is moved by the gentleman from Colorado to strike out. I shall advocate that proposition, not with the view only of getting clear of that part of the provision, but also with that of striking out the latter part which excludes them from the Legislature. With regard to the first proposition, "having the care of souls," &c., it is singular indeed that in this age, men will persist in a total ignorance of the character and duties of the Christian profession. There may have been in the days of witchcraft, and perhaps there may be in other countries to this day, persons who imagine that some men have the care of souls. Now this would stand very well, perhaps, in a church constitution; and there I might be induced to vote for it. But here, sir, it is out of place altogether; it has no business in the Constitution of our country. All that branch of the argument relating to the safety and purity of preachers, might well be addressed to church communities, but should never be heard in a deliberative body engaged in the formation of organic laws. What business is it of ours to preserve the character

of the preacher, pure and uncontaminated by improper associations?—

I believe, however, that the argument has no foundation in fact. Four fifths of the Constitutions of the States of the American Union do admit preachers into the Legislature. Once in a while, the character of a preacher may be injured; but I come from a State where preachers have participated in legislation, and at the same time have preserved their purity of character. And legislative bodies have been incessantly slandered. What is there to be seen in this hall, let me ask, that could injure a preacher's character? This is the first legislative body of which I have had the honor to be a member; and I declare to you, Mr. Chairman, that I have seen none but moral influences pervading it: I have witnessed no drunken gambols, no discreditable squabbles here. Perhaps, however, we are indebted for this high moral tone to the presence among us of religious men and religious teachers. There is a very strong prejudice against Christianity and preachers too, in the world; and were I disposed to play the demagogue, I would know which side to take, and I know that to be on the popular side, I must unite in crying out against church and state. Let me remark here that nothing has pained me so much as the remarks of my esteemed friend from Fayette upon this subject. I understand well the prejudices of the church to which he belongs, and of which he is so conspicuous and profitable a member. I regret extremely to see him taking counsel of those prejudices, and bringing his influence to bear upon the other side of this question. I was raised a Baptist, and know the preachers of that community. And let me remark that we are indebted greatly, not only to the Baptists as a people, but to a Baptist minister for the great principle of universal toleration. The Baptists have been proud of this distinction and honor, and here has originated their prejudice against all religious interference between church and state. When the Sunday mail movement was agitated in the United States, by the Presbyterians, the Baptists stood forth as a well-organized legion in defence of this great truth in the Bill of Rights. And the justly celebrated report of Col. Johnson, was drafted by a Baptist preacher. The greatest law givers who have figured in the world have been preachers. Wm. Penn was a preacher: the celebrated Grinck, who died recently, was a teacher of Christianity. I know many able and distinguished politicians among the preachers of different denominations. But there is another branch of the argument. Our Bill of Rights says that "all freemen, when they form a social compact, have equal rights;" and we do violate it, sir, when we attempt to exclude any freeman from his legislative rights. Say the gentlemen, by excluding minors you are equally violating the Bill of Rights. But, sir, they forget the very gist of the argument. The exclusion of minors is a general law affecting equally all classes of society. Whenever, however, you undertake to say that a given class shall be excluded, you are no longer laying down a general law, but are invading the rights of a given number of individ-

als. Now with regard to expediency: they say that ministers should be excluded, because if they are permitted to come into your legislative halls, church and state will be united. Sir, what evil do they apprehend, what are they attempting to guard against? Why, they have declared in that Bill of Rights that "all men have a natural and indefeasible right to worship God according to the dictates of their own consciences: that no man shall be compelled to attend, erect, or support any place of worship, or to maintain any ministry against his consent; that no human authority ought, in any case whatever, to control or interfere with the rights of conscience: and that no preference shall ever be given by law, to any religious societies, or modes of worship." Is not that article an ample sufficient guard and security against the union of church and state? If not, I will go with any gentleman to make it stronger. But how does the exclusion of the ministers of religion from our legislative halls tend to defeat the ruin of church and state? What bearing has such an exclusion upon it? I say it has none at all. The naked question comes to this. By retaining this clause, we exclude one class of our fellow-citizens from the right to participate in making our laws. Why not exclude them also from judicial power; why not from the executive station? Is it not well known to gentlemen here, that the judiciary have much more influence over our rights and liberties than all the legislatures: that a judge at a single term makes more law than any Legislature that ever sat in this country, more law than the whole body of the Legislature can make during a session? Why not then as well exclude ministers of the gospel from the exercise of judicial powers? The gentleman from^{*} Harrison announced it as a principle, that unity in design is the secret of success, whence he would infer that one profession only is enough: and that there is no such thing as a universal genius. And where does his argument end? In the consequence that none but lawyers are ever to be entrusted with the making of laws. And he announced here, that to be a good statesman, it was necessary to be a profound lawyer. Had the gentleman forgotten Jefferson, and Franklin? And Rush was no lawyer: Washington^{*} was no lawyer. (Mr. Van Zandt explained: he did not intend to assert that it was necessary to be an attorney, or a practising lawyer, but that it was necessary for a statesman to understand well all the great and fundamental principles of law.) Jefferson had a supreme contempt for the profession; so had Washington. (He was a licensed lawyer, said Mr. Van Zandt.) Yes: he looked upon the craft of lawyers, and he left them with disgust. But to the argument. Why, sir, is a good mechanic, why a good farmer incapable of making laws? And I say, sir, and I aver it, that lawyers, above all others, should never have entered the halls of legislation. They are totally incapable of making just and wise laws.

Now, if the gentleman sticks to his argument, he would exclude mechanics, farmers, and every other class, and would raise up in our coun-

by a set of politicians, a privileged class of law makers in a Republic. I do not know, and cannot imagine a more odious argument than this. Now, sir, I ask again, what danger is to be apprehended from sending preachers to the Legislature? There is no class or division in society but has its peculiar interests, its peculiar prejudices, and is governed by its peculiar policy; and it is true of preachers as well as of any other class. What then is the policy of the preacher when he goes to the Legislature? Why, sir, if it is to unite Church and State we ought to be very careful not to exclude him, but to deprive him of the means of carrying his projects into execution. When he gets into the halls of the Legislature, he finds that you have there cut him off entirely by the adoption of that clause which says that there shall never be a union between Church and State in this country, and that any set of religious tenets shall never be established in this country. It is my belief that no well organized government can exist, unless every interest is represented. If the class of lawyers should be represented in the Legislature, it is equally necessary to the harmony of our government that the class of preachers should be represented. This necessity is founded in human nature; one class can never understand the wants, and feelings, and prejudices of another, and should never be charged with legislating for it. Every freeman understands his own interest best; the lawyer understands his, and legislates with a vengeance to protect it. If I were in favor of the exclusion of any class from a due representation in the machinery of government, I should advocate the proposition to exclude lawyers altogether. For I do believe that more injury has resulted to society from their legislation, than from all other causes combined.

Mr. Moore said: Mr. President, I little expected when I first hazarded the few brief remarks in the outset of this discussion in support of the motion made by my friend from Red River, that the debate would have been thus protracted, nor would I again refer to this subject if the personal allusion of my friend from Galveston did not impose upon the necessity of a response. He has observed that I am peculiarly qualified by nature to do honor to the profession of divinity, and he bases a lengthy argument upon the seeming evil that would result if I should arise in a legislative assembly to advocate some religious tenet, and on opposite sides should arise, the Mormon, the Catholic, the Protestant, and the several partisans of other religious denominations. Ah! sir, would indeed that I had the great endowments of a Bossuet or a Fenelon, would that with the ennobling virtues and sublime example of the latter, and the commanding, irresistible eloquence of the former of those eminent ministers, I could advocate in this assembly the great principles that should be embodied in this Constitution. Principles based upon the precepts of him, who when reviled, reviled not again; principles that are the only substantial basis of civil as well as social institutions. Ah! sir, when I reflect upon the ennobling virtues and

commanding talents of those great men; ardently do I wish that the legislative halls of my native as well as those of my adopted country, might be honored by such statesmen. Their vast learning, their stupendous talents, would be exerted to establish civil institutions that would be enduring as the "Rock of Ages." Institutions that would stand through all time the pride and glory of their country. Such men would indeed in the sacred language of scripture, be "wise as serpents and harmless as doves." None but the infidel, the stolid hater of religion, should fear that such men would render the legislative halls the scene of fierce contentions, of strife and turmoil. Sir, I look forward with confidence to the day when the sublime precepts of the gospel shall be so diffused throughout the world, that not only the strifes of individuals and parties, and sects shall cease, but even nations shall learn to war no more. Such we are told in sacred writ will be the ultimate effects of the religion of the Redeemer. Then why should the Christian fear to throw open the legislative halls to all classes of society, and to men of all professions? It is a slander upon religion itself, thus to disfranchise ministers of the gospel; and the very section as it now stands in this bill, conveys the idea that ministers of the gospel are the most dangerous of all classes of men. One of my friends here has classed them with idiots and minors. Such assertions seem to me, sir, to convey a reflection on one at least of the members of this Convention. But I can excuse my friends in this instance; since I am well aware that in the heat of debate, they have, like my friend from Galveston, who tells us that he has slept upon this question, become in a manner blinded by fantasies. They have conjured up bugbears, and are frightened with the creations of their own fancy. The Congress of the United States, the highest legislature in the world, has long been open to ministers of the gospel: but none of the evils my friend from Galveston has depicted with such admirable precision, have been displayed there. The few, very few ministers of the gospel who have been admitted to the legislative halls at Washington, have been efficient as statesmen as well as divines, and their talents and example have had as salutary an influence as those of any other class of men. If I wished to incorporate a provision in this Constitution to exclude any class of individuals, it would not be the ministers of the gospel, the lawyers or physicians, but a class ten fold more dangerous than all these combined. I would exclude the land speculator, sir; the money speculator, those who like vampyres wish to fatten on the body politic—who would barter their country's best interests for gold, and who enter the halls of legislation only to warp the laws to advance some interest of their own, or those of their employers. Such men, sir, are like wolves in sheep's clothing, and they weigh like an incubus upon the prosperity of the State. I make no personal allusion here, sir. I speak of what has been, and what may be. If I were a minister, sir, I should say beware of these; for like the Scribes and Pharisees of old, they "are full of hypocrisy and iniquity," and

would pollute the fountains of truth and justice. But as I should despair to frame any clause that could elude the subtlety of such men, to exclude them from the legislature, I wish all classes of society like them, may be permitted to share the common privileges of freemen.

The committee rose and reported progress, &c.; report adopted; and the convention adjourned until 4 o'clock P.M.

4 o'clock, P.M.

The Convention met pursuant to adjournment; and on motion of Mr. Gage, resolved itself into committee of the whole on the report of the Committee on the Legislative Department—Mr. Smyth in the chair.

The amendment of Mr. Brown, to the 28th section, was under consideration.

Mr. Henderson said: I regret, Mr. Chairman, that upon this occasion some gentlemen have taken it upon themselves to show that we who occupy the position in which I stand upon this question, are opposed to the interests of the church: I know it would be an interesting position, if we could occupy it, and perhaps it would be interesting to those gentlemen to see us all laboring together to establish a rule here, which would give force to the doctrines and energy to the endeavors of those who are laboring in this great cause. But in the ground which I take, I have not alone the interests of the churches of the country in view, but I am looking to the interest of the people. And when I repeat again on this occasion, that this is not a question which involves alone the rights of the individual ministers of our churches, but one which involves the rights of all the people of Texas, I hope that gentlemen will not suppose that I am acting the demagogue; I trust they will not rank me with that odious class of persons. When we look, sir, at the origin of this provision, when we look back to the formation of the Constitution of the United States, and the causes which there operated upon the people, I venture to declare that the appellation of demagogues is more in consonance with the position assumed by those gentlemen, than with mine. I am taking here a side of the question which has ever been unpopular; and it is obviously the weak side on this occasion, so far as regards the number of votes; I see plainly that it is to be defeated. But nevertheless I do not feel a less weight of obligation resting upon me to urge my views upon this House, and to assert the rights of those whom I represent. For, as I said yesterday, I am not here as the advocate of the clergy, but of civil and religious liberty, of republican principles. I have been called here to assist in framing a Constitution, to be presented to the government of the United States, one to which no one can point and say here or there is a single clause infringing the great principles of republicanism. Are we not told that we cannot be admitted unless we present a Constitution free from any charge of anti republicanism?

Suppose there is any single member, and there may be more than one in the Senate of the United States, who views this question as I view it, will he not be obliged to reject our Constitution? Or will it not at least afford an excuse for doing this? If we were already a portion of the territory of the United States, we might, perhaps present a Constitution without any of these fears. But, sir, I regard annexation as a matter not yet consummated, until our Constitution is accepted; until then, we are not a part of the United States, we are not in fact or in truth entitled to their protection, or to be called a portion of that country. This single consideration alone should be of sufficient weight upon this occasion: but I come here operated upon by views and opinions sufficient to govern my vote on this question, without any regard to that danger. I feel it a solemn duty to those whom I represent here, to vote against any clause in this Constitution which takes away the rights of any citizen. By one portion of the Bill of Rights we declare that all freemen, when they form a social compact, have equal rights. Now, I would ask this House, do you give full bearing and effect to that declaration, if you declare that no minister of the gospel shall have the same right which you award to others? When we declare that all men have equal rights, we declare that all men, let them place themselves in any position whatever, not criminal or disgraceful, have equal rights; and does it not necessarily follow, if we adopt the report made upon this subject, that although we have said in the 2d article of the Constitution that ministers of the gospel have equal rights with us, yet they shall not have the right of coming to the Legislature and sitting with you in its deliberations? And do we not say to the people in one breath, you are free, equal and independent; and in the next, unless you exercise that freedom in the way which we point out to you, you shall not exercise it at all? We have been told, and repeatedly, that it is no more inconsistent with the Bill of Rights to say, that a preacher shall not occupy a seat in the Legislature, than to say that the most intelligent youth in the country before he arrives at a certain age, shall not be a voter, a representative, or Governor of your State. But is there any parallel between the cases? Is it true, that they say to the person in this instance no more than they say generally to all the citizens of the country? No, sir, in this case the restriction is continued through life, or as long as he may choose to exercise the avocation of his choice. If there is any truth in this, I confess that I am unable to see it. But the great objection insisted upon by gentlemen, is the danger to be apprehended from extending this privilege; the danger of overturning the liberties of the State. That is the great argument on the one hand, whilst on the other they strenuously contend for the necessity of this provision to the preservation of the purity of the church. I must confess that I am not a very devout religionist; would to God I were better than I am! But it seems to me that the course taken by gentlemen is a little contradictory to the sanctity they profess. On the one hand they seem devoted to

the interest of the churches of the country, and alarmed at the prospect of corruption; on the other hand, they say if we admit these fiends, they will destroy the liberties of the country, and overturn your government. I would ask gentlemen to state a single instance, except that referred to of Mr. Ely, in the whole history of the American government, where there has been even an intimation of such interference on the part of any church in that country? If there has been any other, I do not recollect it. Look at the history of the States formed in the U. States. Have they perceived any danger in permitting ministers of the gospel to become members of the Legislature? The gentleman from Nacogdoches informs us that so far as he has investigated the matter, Seventeen States have rejected this provision, for five which have inserted it. If this should be a subject of jealousy in a State government, would it not be of much greater importance in the general government of the U. States? And I would ask whether among the really great men who have framed the Constitution of that government, there was one who thought this subject worthy of his attention? No, sir, our fathers who framed that instrument, though they knew that from that point, if at all, the attack must be made upon the liberties of the country, did not regard it as a point claiming any notice in the formation of the Constitution; and they imposed no such restriction.

They say, here is the great mass of the American people, from them you may choose your representatives. If the attack is ever to be made, it must come from that quarter. Until the Constitution of the United States is overthrown, nothing can possibly be effected towards accomplishing the end which gentlemen seem to fear, unless this section is adopted. I would ask then if it is necessary for the State of Texas to make any provision against this imagined danger? The prejudices of the American people were raised in the revolution against the established church of England; they were raised against the influence of the priesthood; against every thing tending to abridge civil and religious liberty. And they were called upon to say in forming both the general and the state governments, that they would give toleration to all sects in religion, freedom of worship to all classes of men. Imitating their example, we claim to establish here a free government; we claim the right to govern ourselves; we claim the right of worshipping God according to the dictates of our own consciences, acknowledging no master except our Father in Heaven. And I would ask, among a people as jealous as we are, if any danger of this nature is to be apprehended? If there can be any danger in allowing men to select their representatives, if they choose to do so, among ministers of the gospel? If we were now in the dark ages of the past, it might be said that the people were ignorant; incapable of seeing the dangers surrounding them; influenced not by reason, but by the prejudices and predilections of this or that sect; and that we might with propriety impose a restriction of this sort. But when we

have declared in our Constitution that all men are free and equal, and independent: that man is capable of self-government, and that all have equal rights:—I ask if it would be consistent with these views to say that no minister of the gospel shall hold a seat in the legislative councils of the country? We are told by gentlemen, that if they wish to come forward, they can lay down their vocation, and in that way come to our legislative halls: Sir, it will be found to be generally the case, that when a man of that calling throws off his robes, and offers to serve his fellow men in a political capacity, he will not have their confidence: he will excite the prejudices of those who do not belong to his particular church, and the whole class of sinners. And though I am here advocating the rights of ministers of the gospel, I will take occasion to say, that unless my mind should change, unless a gentleman of that calling shall present himself under circumstances more than ordinary, I shall never vote for a minister of the gospel as a representative. But I do not wish to control the rest of my fellow citizens; they may differ from me upon this subject. I do not believe that any man who is devoted to the cause of religion, will offer himself before the people as a candidate for political preferment: but I wish to have that class of men free to do so, and the people free to choose them. Allusions have been made to opinions expressed in conversation: I will tell my experience on the subject. I must confess that a large majority of the preachers with whom I have conversed, are opposed to their holding any civil offices: they have told me that they wished the restriction to be laid. But on one occasion in my own county before I left home, I was asked by a clergyman my opinions upon this subject: and on my replying that I was opposed to any restriction, he said that though he never wished office, yet he regarded it as an imputation upon the class of which he was a member: that he looked upon it as a reflection upon the ministry of Texas to be excluded from office. And I must now say, that if ever in any country I have known a man who deserved the approbation of the community for the purity of his moral character, his excellence in all the departments of life, his ability as a preacher, and his worth as a citizen, he stands pre-eminent in my esteem. I have known many men occupying the position which he sustains in that country, and I must declare that I have never in my life known one whose purity of character, disinterestedness and abilities I have admired more. And now I pledge myself before this House, that if there is any man of his station who would be suspected less than all others of desiring to be benefitted by striking out this clause, it is the gentleman to whom I allude. I am well aware that in taking the course I have done here, I have not taken the popular side. I know that it has been the cry from the very beginning of the American government down to this day, that church and state must never be united. And when I take this position, I see not that I am running counter to that doctrine. If I believed it, I would say let this provision be incorporated in the Constitution, and stand perpetual. But, sir, have

We seen any evidence that the clergy of this country or the U. States would take advantage of any such privilege? Until we do see it, we are bound to infer that they will pursue a pure and holy course; that such is not their disposition. Let us see by experiment whether it is or not; and if we find that such is the tendency of things, we may then guard against it. I am not disposed to accuse any man of cherishing an unholy ambition, until I have seen it in him. If we strike, as the Athenian of old said to his commanding officer, let us hear before we strike. Let us trust the preachers of the gospel with this privilege, and see if they display the ambition charged upon them; and if they do cut off the privilege; but in the name of God, before you condemn, hear and try them. And I say that when they evince such a disposition, I will be one of the first to raise my voice and give my vote against the exercise of this privilege on their part: but until then, I feel myself bound by every duty, that could be imposed upon a freeman to resist to the very utmost. I have occupied more time than I intended on this occasion: but I will say in conclusion, that it is a question of vital importance to the liberties of the country; it is one by which we may defeat the great object of the labors in which we are engaged: it may afford a cause and a just cause to those who agree with me to oppose the ratification of the Constitution.

Mr. Brown withdrew his amendment, as there was a motion to strike out the whole section.

Mr. Mayfield said: I have deferred the expression of the opinions which I entertain upon the merits of the section under consideration until an issue should be fairly made up. The withdrawal of the amendment offered by the gentleman from Colorado, now for the first time presents that issue. I am aware that the patience of the committee must be greatly exhausted; and that in any remarks which I may make, I shall labor under the disadvantages which so long an attention to a subject of this kind must necessarily produce. Notwithstanding, however, the debate has assumed so great a latitude, and so much extraneous matter as it appears to me has been brought into the discussion, I will endeavor so far as I can to treat the question upon its native and individual merits. In having noted the arguments of gentlemen in favor of striking out this section, they appear to assume three distinct and general grounds: supporting, however, as I think, their side of the question, rather by broad assertion and declamation than by argument and reasoning. We are admonished on the one hand, (and it is an admonition which we receive at every step of our proceedings,) that we should be exceedingly cautious and guarded in what we do here, lest something may creep into this Constitution to defeat its acceptance by the Congress of the United States. Then we are told again that we must be extremely careful in every thing we do, lest perchance we should be found

infringing the rights of the dear and sacred people; and damning ourselves and our Constitution to all time. We are again admonished that we have established in the Bill of Rights certain fixed and fundamental principles, and according to the construction of gentlemen, if any thing does not meet their approbation, it is in violation of those principles. I shall first notice the argument that this provision is an infringement of the declaration that all men are free and equal, and entitled to equal rights. Now, sir, we have made no such declaration, and if we had made it, it would not be true in fact. We have simply declared that all freemen when they form a social compact, have equal rights, and shall be entitled to equal privileges. Now I will ask gentlemen, if a free black in this country, declared so by the laws of Texas, and a party to the compact, is not as much a freeman, as any who occupies a place upon this floor, or any minister of the gospel? And yet in sections long anterior to this, these gentlemen voted without any compunctions of conscience, and without any fears that in what they were doing, they were violating republican principles, or the rights of the dear people, to exclude the African and the man of mixed blood from any participation whatever in the legislation of the country. Their fears and alarms were not raised then, though the free black is as much a freeman according to that declaration as any man here. If gentlemen would be consistent with themselves, why not come forward and vindicate the rights of the free black, and admit him to a seat and companionship with themselves in our deliberative assemblies? They may show that the political situation of the country may render it necessary that such a qualification should be introduced into the Constitution itself to limit all these general principles. If then from the peculiar nature of the case and the circumstances by which we are surrounded, they see proper in that case to adopt a qualification seemingly incompatible with a declaration formerly made, is there any thing inconsistent in this? You adopt a qualification for the purpose of placing guards and restrictions to favor liberty and sustain freedom; and yet you are told that, in doing this, you are striking a serious blow at freedom itself, tarnishing the bright name of liberty, doing injustice to the institutions of the land, casting a reflection, and fixing a blemish upon your Constitution, which may cause it to be condemned by the Congress and people of the United States, as anti-republican in its features. I believe there is not a State in the Union, which is not esteemed republican by the great mass in the United States; and if Texas presents a Constitution embodying a principle contained in that of any of those States, it will do sbtless be accepted by the Congress and government of the United States. But we are told that by placing this restriction upon the clergy of the country, we are doing a great violence to the rights of the people. Now these arguments might have some force, if supported by fact, consistency and reason. But I flatter myself that no gentleman upon this floor will be startled or driven from the dispassionate consideration of this subject, by

the mere declaration that the people will be injured, without its having been established fairly and justly by argument. In what respect is a restriction of this kind an injury to the people? If it is the intention to give them unlimited power and control, if no restriction whatever of a political character is to be placed upon the exercise of their judgment and their will, why not throw the subject broad cast, and allow them to elect their representatives from freemen of African blood? If the restriction in this instance is incompatible with the principles of justice, it is in the other. Then I trust that none of these startling admonitions will drive any member from his propriety upon this occasion. In my estimation, Mr. Chairman, this question depends upon higher considerations than those. For I hold that it is not true as a fact, that the incorporation of this section will endanger the adoption of our Constitution by the American Congress; that it is not true as a fact, that it will be an infringement of the rights of the people; it is not true as a fact, that it is in the least derogatory to any principle contained in the Bill of Rights. I hold that it is in conformity with our public policy for all time to come; that it addresses itself with peculiar force to the breast of every citizen of Texas. The declaration in this provision is a mere declaration, giving to a class in this country by virtue of it, a higher, more imposing and more influential attitude than they could occupy by passing them over in silence, without noticing them as a class. It is a declaration that being "dedicated to God and the care of souls," they should not participate in the strifes and cares of state. Is that declaration any injury to them as a body, is it any reflection upon the church, any anathema against the christian religion, any imputation whatever upon the purity of conduct or the course of life of that portion of the community? By no means. We merely say to them, you have high and sacred duties to perform, which must necessarily exclude you from participating in the stirring scenes of political life, in order that you may remain pure and spotless: simply conform to your profession, and live according to the vocation you have chosen, and your usefulness will be like charity itself, modest, retiring and unassuming in its walks. It is contended, however, that by virtue of a provision of this kind, we shall deprive the people of the liberty of selecting their rulers and legislators, and in many instances, of choosing the wisest and most virtuous men. It may be true, sir, that the preachers and clergy of the country, and I hope it will be so in all time to come, are wise, and virtuous, well educated, and well versed in all the branches of science and literature. But the question which presents itself is this: will their wisdom and learning, their moral worth and weight of character, be better applied in advancing the ends of society and sustaining the institutions of the land, in the halls of legislation, or in the walks of life, which they have selected for themselves? A man may be wise as a minister of the gospel, an able teacher upon all subjects appertaining to morals and the Christian religion, skilled in philosophy, learned in the sciences, and highly capable of diffusing his

learning among the communities with which he may mingle; but the question is simply, whether this wisdom and learning can be best appropriated in sustaining the institutions and promoting the welfare of the country, by his entering upon the bustling scenes of political life and making his learning the foot-ball and plaything of every petty demagogue with whom he may come in contact. It occurs to me, sir, that consulting the safety of the country, and the good of society, as legislators acting for the people, or the people acting for themselves, we should appropriate that class of men to the sphere where their learning, virtue, morality or intelligence can best be directed in ministering to the wants of society, sustaining the institutions of the land, and supporting civil and religious liberty. And in doing this, that we shall do nothing incompatible either with the rights of the people, or the safety of the State.

There is another consideration, which at this time would seem peculiarly to address itself to the consideration of this Convention. In all legislation we should be directed by the condition of things surrounding us, by the political attitude of our own country and its political relations with others. It will be recollect that there is now existing a feud, in one of the most powerful churches of the American Union, the Methodist; one of the most useful, and decidedly one of the most numerous; a feud which has riven it asunder. Now if I understand the cause of this division between the Southern and Eastern Churches, it was brought about by fanaticism; a fanaticism which aims a mortal blow at the institutions of the Southern States. As a consequence of this division, doubtless that class which we look upon as fanatical, will become the more energetic and active in spreading and disseminating their own peculiar doctrines, which strike directly at the institutions of the Southern States, and if carried out, will bring about a civil war in the land. If no check is placed upon the dissemination of these fanatical doctrines, may they not come among us in sheep's clothing, like the individual alluded to by the gentleman from Galveston, preaching the gospel and free grace to all men, and seeking to ingratiate themselves in our affections? May not hordes of the clergy come here, and addressing themselves under the garb and disguise of their profession to the confidence, esteem and affection of the people, acquire an influence over the churches, year after year increasing in strength, until the institutions of the country may be sapped in their foundations and overturned before we are aware of the danger? Fifteen, twenty, or fifty years, is a long time in the life of an individual, but a very short period in the existence of a people. And what we do at this time, should be done with an eye to the future; and we should as carefully guard against evils which may arise fifty years hence, as those we may anticipate on the morrow.— Then everything considered, it appears to me that the prosperity and happiness of the country will best be enhanced by retaining this worthy and meritorious class of men exclusively in the vocations of life which they have selected. Ministers of the gospel should be above suspicion; they

should be free from the contaminations of the world; in going forth to do good, they should be not only pure and spotless, but unsuspected.— Let one of any particular denomination mount the rostrum or the hustings, or enter into a discussion upon any political subject whatever, and he will appeal to the candid reflections of every gentleman, if he does not inflict an injury upon his church, and cast a slur upon the Christian religion itself.

Before I take my seat, I will notice a few remarks which fell from the gentleman from Fannin. He contended that the article is derogatory to the honor and high position of the church's of the land, and to the Christian religion itself. As I conceive, it involves no assault or slight whatever upon the church or religion. He contends further, that if any given class is to be excluded, we should also exclude another class against which his malice is particularly directed. In his anathemas against that class to which, as I believe, he unfortunately belongs, it occurred to me that he indulged in some reflections which were unjust, and wholly uncalled for. If I understood him correctly, he stated that he believed greater evils had arisen in legislation, by the action of lawyers, than from any other cause. If the gentleman is correct, it is my peculiar misfortune likewise to belong to that class; and whatever may be his opinions upon the subject, I shall always be proud of my profession. I hold that all professions are on a level; yes, sir, the humblest mechanic who lives and supports himself by the labor of his hands, has a high and honorable calling. The man who follows the plough, and makes his living by the sweat of his brow, has likewise a highly honorable occupation. He who devotes himself to his moral and religious duties as a clergyman, has not only an elevated and honorable profession, but one of great sacredness and responsibility. So far, however, as concerns the profession of the law, and those attached to it, it is not true, and the political history of states and nations will show the fact, that evil has never sprung from the legislation of lawyers as a class in any country. On the contrary, Mr. Chairman, they have been the first, whenever liberty has been assailed or the rights of man trampled upon, to step forward in the cause of humanity, and vindicate those eternal rights and sacred liberties, not only by argument, but by actions, not only by words, but by deeds. They as a class have stepped forward at all times, and the history of all free states will establish the fact, in the cause of freedom: they have been first in the cabinet, and likewise first in the field. Their profession has necessarily directed their attention to the great doctrines and the eternal principles of justice and right, to the basis of free governments and the foundations of civil and religious liberty; and with but few exceptions there have been no black sheep in the flock, none who have abandoned the standard of their country in time of danger, or inflicted the stabs of deleterious legislation. The immortal Jefferson was a lawyer: Hamilton was a lawyer: the Lees were lawyers. Look at the bright circle of the names of American pa-

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elots who signed the Declaration of Independence, and again of those who formed the Constitution of America, and you will find them occupying a high position there ~~as~~ a class: you will find men, who not only did honor to their profession, but to the cause of freedom and humanity throughout the world. Such is the true character of the profession to which the gentleman belongs, and which he has so much reviled upon this occasion. The clergy also have done great good: they have promoted the cause of civil and religious liberty: they too have stood by the standard of their country, and maintained the eternal principles which give to freedom the enjoyment of their rights as such. And in this discussion it did not seem to me that it was necessary that reflections should be cast upon any class in the community. Entertaining the opinion, however, which the gentleman from Fannin seems to entertain, if he is acting justly, he should move the expulsion of some eighteen or twenty gentlemen from this House: otherwise, the liberties of Texas may be destroyed, a blemish be cast upon republican institutions, and certain injury result throughout the world.

Mr. Howard said: Being called upon, Mr. Chairman, in common with others, to vote upon this question, and as it has been thought worthy of so much discussion, I shall give my reasons for the vote I shall give. I shall never condescend to vindicate my motives in any act which I shall perform here; my action will be placed upon the journals, and I shall abide the consequences. Nor shall I condescend here to talk about Democracy or Federalism, that never ceasing theme of declamation. I leave my acts and their consequences to say what they are. If I might be allowed to paraphrase the declaration of a great man, "I have read the book of human life somewhat, and other books a little."

I shall endeavor to deduce the reasons of my actions clearly from principle, whether it will please or not. Not that I am indifferent to consequences: it would be ridiculous to claim an exemption from the influence of human opinion: I do not.

I do not place my vote upon the ground that this provision would violate any principle of the Bill of Rights. The Bill of Rights was anciently an enumeration of privileges conceded by the crown. But here the people who make the Constitution, make also the Bill of Rights; and it has no peculiar sanctity for me over and above the rest of the Constitution.

Neither do I place it upon the ground that by the insertion of this article we may perchance endanger the acceptance of our Constitution by the Senate of the United States. I do not believe that body will care very materially about any provision which we may adopt of this kind.

But I shall place it where I think it belongs, on the ground of abstract right and justice. It is a principle of American liberty and human rights that all men should be equal before the law, unless the safety of the community require a different principle to be established. If then it

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can be made out that preachers of the gospel are dangerous legislators; then it is right to exclude them, and then it is consistent with the Bill of Rights, and consistent with every other principle of human government. But unless it be so made out, proved and clearly proved, that the particular class against which any provision is aimed, are unsafe depositaries of political power, then I say it is an infringement of political liberty: it is one which the people have a right to arraign. I have heard no argument to satisfy me that this is a dangerous class of men; when I do hear it, I shall be as free as any one to exclude them from legislation. Sir, we are creatures of education and circumstance; Pope says, as we are taught, we believe. Our forefathers, in emancipating themselves, acquired a deep hatred for the connection of church and state; and from this principle, they ran, as I conceive, to an overscrupulous length. This provision, however, has found its way into very few Constitutions. It does not reach the mischief which it is intended to prevent: it can have no connection with it whatever. Then it is time that we cast aside the prudish notion we have in this country, that every thing which a minister of the gospel does, is pregnant with a connection between church and state. The Sieur de Tocqueville, who has published a book upon the United States, a book which has met with high honor and great approbation, so much so, that he has been styled the Montesquieu of modern times, has said that during all his residence in the country, travelling from one section to another, in his conversation with the clergy of all denominations, he never found one of them who would advocate any connection whatever between the church and the state. I never in my life have heard one of that class of men say that he was in favor of such a connection. And is there then any the slightest danger in admitting ministers of the gospel to a seat in our legislative assemblies? What is meant by the connection of church and state? Is it that men of any particular denomination are allowed to enjoy a particular office? No, sir: it is that particular modes or regulations of the church are fastened upon the people, protected, secured and guaranteed by the government; that the sanction of the law of the land is attempted to be thrown round the laws and regulations of the church. Could the bare election of a preacher have that effect in itself? It strikes me as too plain for argument. It cannot have that effect: especially when there is a provision in the Constitution prohibiting it; and even if one of that class should be elected to the Legislature, if he has any desire to bring about such connection, there is a provision restraining him and the body of which he is a member. I think then, this is all declamation: it has no solid foundation either in justice or reason. Sir, when was it that there would have been any justice in the United States, in saying that such a connection has ever been attempted? But one act has been stated here, and that act had no relation whatever to such a conception; its whole object was simply to prevent the transportation of the mail on the Sabbath; and how that could affect the connection between church

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and state, would require some stretch of mind to understand. This talk about church and state was a mere pandering to the public taste and public prejudices; it was intended merely to tickle the ear, and not to satisfy the judgment. If then there is no reason of public policy which requires that ministers of the gospel should be excluded, this provision is in violation of the principles of our Constitution: for it denies the people the right to select their representatives from a class of men otherwise eligible. There I rest the whole question.

But, sir, I have another objection. It is giving the clergy an importance which they would not otherwise have. I have no fears of religious denominations, or of the priesthood of those denominations, so long as the principal sects are antagonistic. But the moment the state attacks the church, it brings them all together into one united band of resistance; and that may produce some danger, it may do more to bring about the connection between church and state, than all their unstimulated efforts could do. They will confederate for resistance to what they conceive to be wrong, to what they view as an attack upon their fundamental rights. For my part, if that time shall ever come; I had rather take refuge in the bosom of mother church, than see political power pass into the hands of the confederated Protestant denominations.

I have also another objection. If we leave this section to the salutary regulation of public opinion, it is not probable that at any given session you will have three clergymen in either branch of the Legislature. But if you place a club of this kind in their hands, you will certainly see a party spring up to wield it. Could there not be demagogues in the pulpit as well as in the halls of legislation? For though I hold their profession in high estimation, though I respect piety and learning wherever I see it, yet I believe that ministers of the gospel are like other men; they are affected by human passions, feelings and sentiments as other men are. If then you attack their fundamental, their abstract rights, it is easy to see that parties will spring up, and you will find the clergy of all denominations taking sides in the contest, and using their influence to elect a candidate entertaining their particular views. I would avoid all this strife by expunging the needless provision having a tendency to produce hostility of this character. The gentleman from Galveston, whose clear head I am sorry to see so much warped as I conceive it is upon this subject, admitted, that although the evils so much dreaded might arise in time, none had yet arisen. Sir, I am opposed to abstract legislation. It is foolish, and often more than foolish. Can you select any class of men in the community, to whom you are willing to say, we will proscribe you; we will prohibit you from enjoying the advantages of office; not because you are dangerous now, but because at some future time you may become very troublesome and vexatious citizens? It strikes me that the injustice of such a position must appear clearly to the good sense of every deputy upon this floor. Then, on

accounts of its injustice, unless its necessity should be clearly made out; I would vote against any odious distinction of this character.

In the wide range given to this discussion, the subject of abolition has been brought in. Now I understand that there has been a division in the Methodist church. And here let me ask, are you prepared to say, because a man's views do not square with yours on this or any other subject, that you will exclude him from the legislative councils of the nation? But I think this a particularly unfortunate allusion in connection with this subject. Are you willing to say to the Southern preachers who have thus stood by you even to the division of their church, that you will confound your friends and your enemies; that you will place those who have maintained your rights on the same footing with those who have advocated measures calculated to destroy them?

But there is another reason why I shall vote for striking out this provision. It is this— You cannot, sir, if you wished it, eradicate the feeling of religion from the human mind. It is the governing principle of the universe. Even the savage maintains the worship of the Great Spirit: there is no country, no people, without a religion. And for my own part, I would prefer even the heathen mythology to no religion at all, or unadulterated Atheism. You cannot prevent the existence of a religious feeling in the community. It is a principle of human nature. Now, sir, is there any great interest which is not entitled to be protected, to be secured, nay even to be represented in any system of laws and government for a people or community? Is it not, I had almost said, a democratic, but I will say an American principle, that all interests are entitled to be protected? You do not proscribe the head of the Jewish Synagogue, nor the lecturer on Atheism; and I would ask, by what rule of impartial justice do you single out the minister of Christ as the object of special condemnation? I say, sir, that unless the class attempted to be proscribed is dangerous, and not to be trusted, we have no right by the laws of God and man to deprive them of political privileges. There can be no fear in this country of any connection between Church and State. For sects are continually multiplying; the churches are dividing more and more; and the Catholics themselves have taken the ground and published their opinions that there should be no such connection. A restriction of this nature strikes me as gratuitous and uncalled for, and especially as it concerns the Protestant sects. What were the principles of Luther? And since preachers have been talked about there has been no other one man whose deeds are recorded in all history who has done as much for civil liberty as Martin Luther. He was the author of the great impulse given to the human mind, of the great spirit of inquiry, of the great feeling of resistance to oppression, of the great impetus which made men refuse longer to be trampled upon either by the rulers of the Church, or the crowned heads, who ruled in conjunction with them. It was his principle that there is no connection between God and Mammon; that there should be no connection between

Church and State. It was a great principle of the Reformation, a principle in accordance with the views and feelings of the moving spirits of that great work of reform in morals and government. I think this suspicion wholly unfounded and uncalled for. So far as relates to the political principles of the Church, to the organization of a religious party, I consider it a matter of very little consequence. There will never be many preachers in the Legislature. And it does strike me that it will be in season to attack a class, when that class shall attack the government or the fundamental principles of society. For myself, I will not go out of the way to attack any class of men; but above all, I conceive it inexpedient needlessly to attack a class which to a great extent must have dominion over the human mind. And do you imagine that you can reach the seat of that dominion by excluding them from places of trust and honor, arraying them by your injustice against the government itself? Sir, their power is too deeply seated. It cannot be eradicated by any act that we can do here. Why, then, array this interest against the government? It strikes me as the height of folly.

I agree that the minister should keep to his calling. I agree that the lawyer who wishes to attain to eminence, fame and usefulness in his profession, ought never to step his foot within the halls of legislation; neither should the physician. But because we might give them that advice, we should not go quite so far as to say to them, I know better than you what is best for you; in order to make you a great lawyer or a profound jurist, it is expedient to withdraw you from the duties of public life; therefore you shall not enter the halls of legislation. We may give the clergy all the advice we please upon the subject; it does not, however, thence follow that we have the right to impose this restriction, unless the public good, and the interest, security and safety of society demand it. If they demand it, if that is proved, then I go with you; but I am not to be influenced by a vague terror of what may happen some fifty or sixty years hence. Sufficient for the day is the evil thereof; it is a very good maxim in legislation as in other things.

I am aware that I have been very desultory in my remarks; still they embrace the reasons which will govern my vote upon this question.

The question being taken, the Convention refused to strike out the 28th section.

On motion of Mr. Gage, the committee rose, &c., and the Convention adjourned until half past 8 o'clock to-morrow morning.