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OFFICIAL.

JOURNAL OF THE SENATE.

First Session—Fifteenth Legislature.

Tuesday, January 5, 1841.

The senate met agreeably to adjournment:

Members present: Messrs Felix Garcia, President; Armant, Bossier, Crow, Downs, Davidson, Hiriart, Lacoste, Porche, Scott of Baton Rouge, Sott of Feliciana; Thibodeaux, Waggaman and Walker.

The president submitted the following letter, which was read.

To the honorable president and members of the senate of Louisiana.

Gentlemen:

I am requested by the Directors of the Merchants Exchange Company to tender to your honorably body the privilegeu of their reading rooms on Royal st.

New Orleans, January 4th, 1841.

Very respectfully,

(Signed) W. T. RAYNAL, Secretary M. E. C.

The president appointed the following standing committees:

Committee of Elections,	Messrs. Bossier, Hiriart, Crow
Claims,	Sparrow, Dupré, Thibodeaux.
Unfinished Business,	Walker, Downs, Armant.
Enrolment,	Armant, Thibodeaux, Davidson.
To audit and control the expenses,	Bossier, Sparrow, Lacoste.
Public Education,	Hoa, Downs, Scott, of Feliciana.
Internal Improvement,	Scott, of Feliciana Walker, Armant.
Judiciary,	Hoa, Downs, Waggaman.
Finance,	Downs, Hoa, Walker.
To visit the penitentiary,	Hiriart, Davidson.
Militia,	Bossier, Scott of Feliciana, Lacoste.

NOTICES.

Mr. Davidson gave notice that he would introduce an act entitled

'An act to reduce the salary of the governor and other officers of the state of Louisiana.'

Mr. Walker also gave notice that he would introduce a bill entitled

'An act to amend the right of suffrage.'

The secretary requested the concurrence of the house in the resolution relative to the celebration of the 8th of January.

Mr. Davidson introduced the following resolutions, which were read and adopted.

'Resolved, That the treasurer of the state of Louisiana be, and he is hereby required to furnish to the senate the number of salaried officers of the state of Louisiana, whose salaries are paid by the state, and amount paid to each officer.

'Resolved, That the treasurer of the state of Louisiana be required to furnish to the senate the amount of money expended by the Board of Public Works since its creation, and for what object.'

Mr. Waggaman offered the following resolution:

'Resolved, That the treasurer of the state report to the senate the number and amount of bonds issued in favor of the different banking corporations of the city of New Orleans, on the part of the state of Louisiana, to whom, and when delivered.'

After the reading of said resolution, Mr. Davidson moved to amend it by inserting after the word 'report' the word 'forthwith;' his motion was carried, and the resolution was adopted.

Mr. Downs presented the following resolution, which was read, and laid over, subject to the call of the senate:

'Resolved, That each member of the senate be furnished daily with two copies of the state gazette, containing the debates and the journals of proceedings of both houses of the general assembly, to be distributed among their constituents.'

Mr. Scott of Baton Rouge, presented the following resolution:

'Resolved, That the state treasurer report to the senate the number and amount of bonds issued in favor of the New Orleans and Nashville Rail Road company, on the part of the state of Louisiana; also, the amount paid by him on the interest due, which the company failed to pay.'

On motion of Mr. Hoa, said resolution was amended by inserting after the words 'amount of bonds issued' the words 'and delivered.' Said resolution was adopted as amended.

Mr. Downs obtained leave to introduce, without previous notice, a bill entitled 'An act for taking the sense of the good people of this state, as to the necessity and expediency of calling a convention to amend the constitution.' Said bill underwent its first reading, and, on motion of Mr. Waggaman, was ordered to be printed. It was also referred on motion of Mr. Downs, to a select committee of three members.

The president appointed Messrs. Downs, Waggaman and Hiriart, of said committee.

Mr. Cuvillier, clerk of the house, informed the senate, that the house had concurred in the resolution appointing a joint committee to make the necessary preparations for the celebration of the 8th of January, and that the speaker of the house had appointed Messrs Clore, Friend and Philips of said committee on behalf of the house.

On motion, the senate adjourned till to-morrow at 11 o'clock, A. M.

JOURNAL OF THE SENATE.

Wednesday, 6 January, 1841.

The senate met agreeably to adjournment.

Members present:—Messrs. Felix Garcia, president, Armant, Bossier, Crow, Downs, Davidson, Hiriart, Hoa, Lacoste, Porche, W. B. Scott, of Baton Rouge, T. W. Scott, of Feliciana, Sparrow, Thibodeaux, Waggaman and Walker.

The president submitted the following letter to the senate, accompanied by four statements, which were read, and on motion of Mr. Davidson, were ordered to be printed.

TREASURY DEPARTMENT,
New Orleans, January 6, 1841.

Sir—In compliance with the resolutions of the senate, passed yesterday, I herewith submit the information required, in four several statements, numbered from No. 1 to 4, answering the resolutions in their order.

I am, respectfully,
Your obedient servant,
(Signed) F. GARDERE,
State Treasurer.

Hon. Felix Garcia,
President of the Senate.

The president also submitted the following letter, which was read.

New Orleans, 6th January, 1841.

To the Honorable, the President of the Senate of the State of Louisiana.

Sir—I have opened a Reading Room in the American Exchange (Camp street,) and have the honor through you to invite all the members of the senate, during its session.

Respectfully,
Your obdt. and humble serv't.
(Signed) ROY TANKERSLEY

On motion, Mr. Davidson was dispensed from serving on the committee of enrollment, and the president appointed Mr. Waggaman in his stead.

Mr Scott of Baton Rouge, presented a petition from Clapman Sprague, praying for indemnity, for services rendered to the state, which petition, on motion was referred to a select committee of the members.

The president appointed Messrs. Scott, of Baton Rouge, Walker and Thibodeaux of said committee.

Mr. Hoa, of the committee appointed on behalf of the senate to make the necessary preparations for the celebration of the 8th of January, presented a programme, which was adopted, and, on motion, ordered to be printed.

On motion of Mr. Davidson, the different subjects embraced in the governor's message were referred to their appropriate standing committees.

Mr. Bossier gave notice that he would introduce a bill entitled

'An act to create a notary public in the parish of Natchitoches.'

On motion, the senate adjourned till to-morrow at 11 o'clock, A. M.

No. 1.

Statement of the number and amount of bonds issued and delivered in favor of the New-Orleans and Nashville Railroad Company, and amount of interest paid thereon.

Number	When payable.	Amount.
400 bonds for $1,000 each, bearing 6 p'ct. interest.	April 1, 1837.	$400,000

The sum of $21,526 3-100, being balance of the interest due and which the company was unable to meet, was paid by the state during last year.

January 6, 1841.
(Signed) F. GARDERE, State Treasurer.

(No. 2.)

Statement of the number of salaried officers of the State of Louisiana, whose salaries are paid by the state, and amount paid to each officer:

Number.	Denomination of Office.	Amount of annual Salary.
1	Governor,	$7,000 00
1	Secretary of state,	2,000 00
1	Attorney General,	2,500 00
1	Treasurer,	2,000 00
1	Surveyor General,	600 00
1	Adjutant and Inspector General,	4,000 00
1	Auditor of public accounts,	4,000 00
1	Judges of Supreme Court, each $3,000,	12,000 00
1	Secretary of the Senate,	2,000 00
1	Clerk of the House of Representatives,	2,000 00
1	Judge Criminal Court,	4,000 00
1	Judge Commercial Court,	4,000 00
1	Judge of the District,	4,000 00
10	District Judges, each of $2,000,	17,000 00
1	Reporter Decisions Supreme Court,	1,000 00
3	Clerks Supreme Court East and West District,	1,000 00
1	Interpreter at Criminal Court,	1,000 00
1	Clerk of Criminal Court,	2,000 00
1	State Librarian,	600 00
1	Clerk to Commissioner of Public Works,	1,200 00
1	Civil Engineer,	2,000 00
1	Superintendents,	2,000 00
1	Superintendents,	2,000 00
1	Superintendents,	1,000 00
	Officers of the State Penitentiary, about,	30,000 00
		$148,500 00

January 5th, 1841.
(Signed,) F. GARDERE, State Treasurer.

*To be refunded by the parish of Orleans out of the taxes it pays.

†Paid out of the $30,000 annually appropriated to the fund for internal improvements.

‡The amount of salary of the officers of the Penitentiary is fixed by law, but varies according to the number of persons employed by the inspectors. The amount annually drawn out of the treasury is nearly the sum carried out—say, $30,000.

(No. 3.)

Statement of money expended by the board of public works since its creation, and for what object:

For what object.	Amount.
Breakwater at Donaldsonville,	$3,119 17
Works on bayous Cailloux and Terrebonne,	3,608 22
Surveys of Lake Borgne,	428 53
" of English Turn Road,	300 00
" of New Orleans and Pitquemine,	50 19
" of Nashville Rail Road route,	1,404 1
Works on river Finish,	3,661 23
" on river Tanchipaho and Notalbany,	4,296 37
" on West Pearl river,	3,810 23
Bridges over Thompson's Creek,	15,360 68
Repairs at the mouth of Pitquemine,	2,342 19
Surveys in eastern parishes, Amite, Notalbany, West Pearl, Tanchipaho, Bogue Chitto,	296 00
Surveys of Baton Rouge and Clinton rail road,	509 38
" of West Baton Rouge and Grosse Tête,	79 63
" of a road from Galveston to Mississippi,	648 40
Resurvey of West Pearl river,	920 00
Works on Bayou Boeuf,	10,439 45
" " Sulitte's Bayou,	1,812 46
" " Bayou St. Ibolomew,	5,131 89
" " Bayou Teneau,	3,125 46
" " Bayou Pigeon, Serrel and Boeuf,	1,864 95
Surveys in eastern parishes, bayous Boeuf, Naples and Jean de Jean,	1,547 62
" of bayous Bullitt and D'Argent,	300 00
" of bayou Saline and Black Lake,	1,464 69
" of bayous Mason, Walnut, Bushy and river Tensas,	570 00
Works on the Atchafalaya, Courtableau, (Grosselite, Serrel, Pigeon, &c.,	31,240 39
Works on bayou Lacombe,	928 18
Works on Red River,	3,894 27
Shutting up of Bayou Lafourche,	4,217 00
Survey of Bayou Rouge, Old and Little Rivers,	10 96
Survey of Red River,	21 38
" of Livingston Railroad route,	744 00
Works on Bayou Mason and Grand River,	6,089 55
Works on Bayou Lafourche,	2,719 44
" Lake Salinas and Bayou Mason,	382 40
" Bayou Winsey,	664 56
" Bayou Dearborne,	161 78
" Bayou Dorshest,	81 45
Mileage and attendance to directors,	18,720 00
Expense of offices,	1,038 29
Salaries of officers,	6,093 50
Discount of notes,	17,436 29
General Expense,	13,095 66
Any sum to engineers, and superintendents' accounts, for quarter,	14,791 60
Pay of assistant engineers,	3,379 40
Engineering instruments,	454 38
Purchase of slaves,	100,996 17
Steamboat Tiger Island,	12,797 36
Snag boat Crab and Experimental,	9,270 14
Repairs of snag boat Crab,	1,511 87
Steamboat Franklin,	10,640 14
Levee at Raccourci Point,	12,413 15
Adjustable Cylinders: Excavator,	4,853 19
Repairs of Thompson's Creek Bridge,	2,000 00
Steamboat Agnes,	4,484 78
Repairs of steamboat Experiment,	2,192 17
" of Levee at Raccourci Point,	650 00
	$414,476 16

January 6, 1841.
(Signed,) F. GARDERE, State Treasurer.

For statement No. 4, see the Journal.

Thursday, 7th January, 1841.

The senate met agreeably to adjournment.

Members present—Messrs. Felix Garcia, President; Bossier, Downs, Davidson, Hiriart, Hoa, Lacoste, Scott, of Baton Rouge; Scott, of Feliciana; Sparrow, Thibodeaux, and Walker.

Mr. Downs presented a petition from the residents of the parishes of Claiborne, Cattahoula, and Natchitoches, praying for a change of boundary.

Said petition, on motion, was referred to a select committee of three members.

The president appointed Messrs. Downs, Bossier, and Sparrow of said committee.

Mr. Sparrow presented a petition from Mr. M. M. Robinson, praying that a committee be appointed to examine a digest of the penal laws, in force in this state.

On motion of Mr. Sparrow, said petition was referred to the judiciary committee.

Mr. Downs gave notice that he would introduce the following bills:

'An Act supplementary to the several acts relative to elections, and to digest the same into one act.'

'An Act to incorporate the Male and Female Academy of the Parish of Union,' and

'An Act more effectually to confine the jurisdiction of justices of the peace to their respective wards or sections.'

Mr. Cuvillier, clerk of the house, requested the concurrence of the senate to the following resolutions.

'Resolved by the Senate and House of Representatives in general assembly convened.

That our senators and representatives in congress be requested to use their best exertions to procure the passage of a 'general bankrupt law' at the present session of congress.

And be it further resolved, 'That the governor be requested to transmit a copy of the foregoing resolution to our senators and representatives in congress.'

'Resolved by the senate and house, That on Monday next, (the day fixed by law for the election of a senator in the U. S. Senate,) at the hour of 12, M. the members of the two houses of the General Assembly, now in session, proceed to the said election, in the Hall of the House of Representatives.'

Agreeably to previous notice, Mr. Bossier introduced a bill entitled:

'An act to create a notary public in the parish of Natchitoches,' which bill underwent its first reading.

Mr. Hiriart gave notice that he would introduce a bill entitled:

'An act to establish public roads between the first and second concessions in the parish of West Baton Rouge;' and,

'An act to create an election precinct in the parish of Iberville.'

Mr. Lacoste gave notice that he would introduce a bill entitled:

'An act to allow a certain sum of money to establish a public school in that portion of the parish of Orleans, situate on the right bank of the Mississippi.'

Mr. Sparrow gave notice that he would introduce a bill entitled,

'An Act to increase the compensation to jurors in the ninth judicial district.'

Mr. Scott of Baton Rouge also gave notice that he would introduce a bill to fix a day of adjournment, sine die.

Mr. Walker presented the following resolution:

'Resolved, That the right of suffrage ought to be extended to all free white male citizens of the United States, above the age of twenty one years, and having the constitutional residence, which may be done in accordance with the constitution, by the imposition of a tax.'

Said resolution underwent its first reading, and Mr. Davidson called for the yeas and nays on its adoption.

The result was, that Messrs. Bossier, Downs, Davidson, Hiriart, Hoa, Lacoste, Scott of Baton Rouge, Scott of Feliciana, Sparrow, Thibodeaux and Walker voted for its adoption—11 yeas. It was consequently unanimously adopted.

On motion of Mr. Davidson, said resolution was reconsidered and amended, by making it a joint resolution, by inserting after the word 'resolved,' the words 'by the senate and house of representatives.'

On motion, the rules were dispensed with, it underwent its second and third readings and was adopted.

On motion of Mr. Hiriart, it was again reconsidered and amended, by inserting after the words 'imposition of a tax' the word 'poll,' and after the word 'tax,' the words 'or any other tax.'

On motion, the rules were dispensed with, it underwent its second and third readings, and was adopted as amended.

On motion of Mr. Downs, the senate took up the resolution from the house, fixing Monday next, at 12 o'clock, M., for the meeting of both houses, for the purpose of electing a senator to the senate of the United States. Said resolution underwent its first reading. On motion, the rules were dispensed with, it underwent its second and third readings and was adopted.

Mr. Downs offered the following resolution, which underwent its first reading.

'Resolved, That a joint committee, consisting of two members of the senate and members of the house of representatives be appointed, to enquire and report whether new laws or rules, or amendments to old laws, may be deemed necessary and expedient, as to the mode of keeping, printing and distribution of the journals of the two houses, and the disposition and preservation of unfinished or rejected bills, resolutions, or other proceedings.'

On motion, the senate adjourned till to-morrow at 10 o'clock, A. M.

Friday, January 8, 1841.

The senate met agreeably to adjournment.

Members present—

Messrs. Felix Garcia, president; Bossier, Crow, Downs, Davidson, Hiriart, Hoa, Lacoste, Scott of Baton Rouge, Scott of Feliciana, Sparrow, Thibodeaux, Waggaman and Walker.

On motion of Mr. Hoa, the Secretary requested the concurrence of the house to the resolution relative to the extension of the right of suffrage, and to inform the house that the senate had concurred with the house in the resolution, fixing Monday next, at 12 o'clock, for the election of a United States senator.

Mr. Cuvillier, clerk of the house, requested the concurrence of the senate to the following resolution:

'Resolved, &c. That both houses of the General Assembly now in session, proceed to the election of a State Printer, on Monday next, January 11th, 1841, at one o'clock, P. M.'

Said resolution underwent its first reading, the rules were dispensed with, it underwent its second and third readings, and was adopted.

On motion of Mr. Hoa, the secretary was directed to inform the house thereof.

Mr. Hoa presented a memorial from the inhabitants of the second municipality of this city, praying for the appointment of two additional harbor masters, (one for each municipality,) which memorial was read, and on motion of Mr. Waggaman, was referred to the judiciary committee.

On motion of Mr. Downs, the senate took up the resolution, requiring of the State Printer to furnish ten copies of the State Gazette, containing the debate and the journals of the proceedings of both houses of the legislature. Said resolution was adopted.

Mr. Scott of Baton Rouge, presented the following resolution:

'Resolved by the senate, &c. That Monday, 8th February, be fixed as the day of adjournment, of the legislature sine die.'

Said resolution underwent its first reading, and on motion, the rules were dispensed with, it underwent its second and third readings and was adopted.

On motion of Mr. Hiriart, it was again reconsidered and amended, by inserting after the words 'imposition of a tax' the word 'poll,' and after the word 'tax,' the words 'or any other tax.'

On motion, the rules were dispensed with, it underwent its second and third readings, and was adopted as amended.

On motion of Mr. Downs, the senate took up the resolution from the house, fixing Monday next, at 12 o'clock, M., for the meeting of both houses, for the purpose of electing a senator to the senate of the United States. Said resolution underwent its first reading. On motion, the rules were dispensed with, it underwent its second and third readings and was adopted.

Mr. Downs offered the following resolution, which underwent its first reading.

'Resolved, That a joint committee, consisting of two members of the senate and members of the house of representatives be appointed, to enquire and report whether new laws or rules, or amendments to old laws, may be deemed necessary and expedient, as to the mode of keeping, printing and distribution of the journals of the two houses, and the disposition and preservation of unfinished or rejected bills, resolutions, or other proceedings.'

On motion, the senate adjourned till to-morrow at 11 o'clock, A. M.

Monday, 11th January, 1841.

The Senate met agreeably to adjournment.

Members present—Messrs. Felix Garcia, President, Armant, Bossier, Crow, Downs, Davidson, Hiriart, Hoa, Lacoste, Porche, Scott of Baton Rouge, Scott of Feliciana, Sparrow, Thibodeaux, Waggaman and Walker.

On motion of Mr. Armant, the oath of office was administered to Mr. J. Dupré, member elect from Opelousas, and he took his seat.

The secretary was directed to inform the house that the senate had concurred in the resolution fixing to-day at one o'clock, P. M. for the election of State Printer.

NOTICES.

Mr. Scott of Baton Rouge, gave notice that he would introduce a joint resolution, relative to the New Orleans and Nashville Rail Road company.

Mr. Walker gave notice that he would introduce a bill entitled,

'An act to amend an act to establish the manner of electing police jurors in the parish of Rapides, and for other purposes.'

Mr. Waggaman gave notice that he would introduce sundry resolutions relative to the landed property banks; and,

'An act to amend the charter of the Carrollton Bank.'

The president submitted the following letter, which was read:

Exchange and Banking Company of New-Orleans,
9th January, 1841.

To the honorable the President of the Senate of the Legislature of Louisiana:

Sir,—In obedience to a provision of the 29th section of the charter of this bank, I have the honor to transmit to you triplicate statements of the affairs of this institution.

Very respectfully,
Your obedient servant,
(Signed,) R. BRENAN, Cashier.

Statement of Exchange and Banking Company of New-Orleans, Monday, Dec. 7, 1840.

DR.

Hotel and lot,		$663,766	31
Permanent expenses,		6,722	16
Bonus,		90,000	00
Bank and insurance stocks,		42,980	00
Suspense account,		468	54
Protest account,		163	75
Stock forfeited,		250	00
Bills and notes discounted, protested,		179,842	28
Bills and notes discounted and exchange,		416,017	00
Capital of branches,		187,500	00
Due by the branches,		114,419	76
Due by foreign banks,		4,272	44
Lloyd and M'Donnell,		48,905	44
Cash on hand—			
Specie,	$49,363 11		
Notes of other banks,	79,863 11	129,266	83
		$1,936,573	92

CR.

Capital stock,		$968,763	80
Bonds issued,		94,000	00
Interest due on anticipated instalments,		1,341	75
Profit and loss,		70,968	78
Unclaimed dividends,		1,229	90
Bills payable,		40,000	00
Due individual depositors,		85,945	04
Due foreign banks,		2,272	44
Due settling clerk,		260,324	71
Circulation,		404,500	00
		$1,936,573	92

(Signed) E. YORE, President.
L. MATTHEWS,
J. A. HARDY,
F. M. BRYAN,
W. MQUIER,
W. PRIESLLY,
JAMES REID,
J. A. FINLEY.

On motion of Mr. Hiriart, said statement was ordered to be laid on the table, subject to the inspection of the senate.

Mr. Downs of the select committee, to whom had been referred the bill entitled,

'An Act for taking the sense of the good people of this state, as to the necessity and expediency of calling a convention to amend the constitution,' made the following report, which was ordered to be printed.

The committee submit as a part of their report the following report made by the judiciary committee of the Senate during the session of 1839 adding only such further reflections and statements as a subsequent experience and discussion have suggested:

The article in the constitution on the subject of amendment, is this.

'When experience shall point out the necessity of amending this constitution, and a majority of all the members elected to both houses of the General Assembly, shall within the first twenty days of their stated annual session, concur in passing a law specifying the alterations intended to be made for taking the sense of the good people of this State, as to the necessity and expediency of calling a convention, it shall be the duty of the several returning officers at the next general election, which shall be held for representatives after the passage of such law, to open a poll for and make return to the legislature for the time being, of the names of all those entitled to vote for representatives who have voted for calling a convention, and if thereupon, it shall appear that a majority of all the citizens of this State entitled to vote for representatives, have voted for a convention, the general assembly shall direct that a similar poll shall be opened and taken for the next year, and if thereupon it shall appear that a majority of all the citizens of this State, entitled to vote for representatives have voted for a convention, the general assembly shall at their next session call a convention to consist of as many members as there shall be in the general assembly and no more, to be chosen in the same manner and proportion as the same assembly, and at the same time that representatives are, by citizens entitled to vote, and to meet within three months after said election for the purpose of re-adopting, amending or changing this constitution. But if it shall appear by the vote of either year, as aforesaid, that a majority of all the citizens entitled to vote for representatives, did not vote for a convention, a convention shall not be called."

The first idea that occurs to the mind on reading this provision of the constitution, is the extreme difficulty, amounting almost to a moral impossibility of complying with all the requisites, necessary for calling a convention. *Three times* the legislature must act on the subject; *twice* must a majority of this State entitled to vote, must act on it; twice on its expediency and again for electing the members of the convention, and this too not an ordinary action by pluralities as most of our elections are decided not even by *majorities* of those voting either in legislature, or in the election by the people, but in all cases by majorities of citizens entitled to vote, and by majorities of all the members elected to each house, which is a very different thing.

Twenty-six representatives and nine senators constitute a quorum of each house of the general assembly of Louisiana. Fourteen representatives and five senators then concurring, only nineteen members in all may, when there is a large quorum, pass any ordinary act of legislation; but to pass an act to provide for taking the vote of the people, as to calling a convention, would require twenty-six representatives and nine senators—thirty-five members in all—nearly double the number necessary in ordinary legislation.

Another difficulty in the way is the great length of time it will require to go through the long and tedious process set forth in the constitutional law should pass this session, the first vote of the people would be taken at the July elections in 1840. It confirmed by the people, to be vested on again at the general election in 1842; and if then approved by the people, it would be the duty of the legislature of their next session in 1843, to provide for electing members to the convention, which election would take place at the same time as the general election in 1844; and the new convention would meet on or before the first Monday in October of that year. Six *years* must then elapse before any practical action can take place, pursuant to the bill now proposed, and even at that late period, after the people shall have three several times, at long intervals, signified their approbation, and the legislature as often, it will still be left entirely discretionary with the convention assembled to *readopt*, amend, or change the constitution, so that it may not be certain that anything, after all, will come of this long and slow progress, to this last stage, any alteration would be made, for the old one might be re-adopted.

It results then, from this view of that part of the constitution, relative to its revision, and this branch of the subject, depending entirely on the test itself, there can be no difference of opinion on, that the proposed bill, if passed, could lead to no immediate practical action or change: that it in fact would be making no change, not even implying the opinion of this legislature that the constitution ought to be amended: but it would be merely opening the door to discussion and to that kind of discussion too peculiar to this subject alone, in all our institutions, state or federal, that can lead to no action for six years, and until it shall have been six times approved of by the people and their representatives.

All the fundamental institutions of a state should have a degree of permanency sufficient to protect them against the sudden and temporary caprices of opinion and passions of the day. But it may be well doubted whether the convention which framed our constitution did not carry this principle too far; whether it would not have been better to have adopted the milder restrictions contained in the constitutions of most of our sister states, and of the United States; and whether the extreme point to which the restriction was carried may not, in the end, lead to the evil intended to be guarded against; and induce the people, at some future time, when they shall have tried, for a series of years, to carry necessary and important amendments, to take a shorter and more direct course than they have yet adopted. This your committee would most earnestly deprecate, and which they do not now apprehend.

Your committee are of opinion that there is a very considerable portion of the people of the state in favor of some amendments of the constitution; what portion can only be ascertained by the passage of such a law as the one proposed. If, on the reference proposed, the people should decide in favor of some amendments made to them, that the constitution ought to be amended, they ought to have their way. It is their right: and it would be neither just nor politic to deny it to them; but if, on the contrary, they should decide that it ought not to be amended, there the matter will end, and all will acquiesce. Your committee therefore respectfully submit whether a due and proper respect for the opinions of even a portion of the people of the community do not secure that proposition, in which they shall so much interest, should be submitted to the whole body of their fellow citizens: and whether it would not be assuming a very high responsibility, induced in the senate, even if a majority of its members should be of opinion that the constitution ought not to be amended to deny to them, not a boon nor an appropriation of money, or any other favor; not a thing which can directly or indirectly operate against the interests, pecuniary or political, of any portion of their fellow citizens; not the adoption of the amendments suggested, for that is not the question; but mere matter of form, under the letter of the constitution—And members may well be opposed to some, or all the specified amendments, and yet vote for the bill—But to deny to them what seems to the committee to be an inherent and indisputable right, in every free citizen, "to take the sense of the good people of the state" on a question which they think of vital importance. It is one of the happy consequences of our glorious Union, that there is less danger of running into untried experiments, in constitutional law, than if each state stood isolated and alone, without a knowledge of the practical operation of the institutions of the co-states. The best tests of principles of government, as well as of the other sciences, is experience. Our fathers, when, after the Declaration of Independance, they set about forming new constitutions, had an extremely difficult task to perform, because they had not then the advantages of that experience, which we now have. Then, every thing was new and untried. Now, there is not a single principle in the proposed bill, nor will there probably be a single one started in the whole six years' discussion, through which they must pass, before they can be adopted, except such as have been long tried in many of the sister states of this Union.

The committee propose to sum up as briefly as the nature of the subject will permit, some of the provisions of the constitutions of other states on the principles specified in the bill, as much better calculated to produce conviction than any other arguments *a priori* which they could use. And first, as to the principle that judges should be appointed for a limited period of years. First, premising that two modes have been adopted in different states to obtain substantially the same object. The one is to have the judges appointed for a certain number of years fixed, and the other is the provision that they shall not remain in office beyond a certain age.

In Maine by the constitution adopted in 1819. "All judicial officers, except justices of the peace, shall hold their offices during good behaviour, but not beyond the age of seventy years."

In New Hampshire and Massachusetts by constitution adopted in 1792 and 1780, respectively. "All judicial officers shall hold their offices during good behaviour, provided, nevertheless, the governor with consent of council, may remove them upon the address of both houses of the Legislature.

In Vermont, Rhode Island, all the judges are elected annually by the legislature.

In Connecticut, they hold their office during good behaviour, but not beyond the age of 70 years.

In New-York, by the new constitution adopted in 1821, "The chancellor and justice of the supreme court hold their offices during good behaviour until they shall attain the age of sixty years." Other judges hold their offices for five years.

In New Jersey by the constitution adopted in July, 1776, it provides that "the judges of the supreme court shall continue in office for seven years," and "the judges of inferior courts shall continue in office five years.

In Pennsylvania, by the new constitution approved by the people in October 1838, all judges are appointed for a limited period of years.

In Delaware, Maryland, Virginia, North Carolina, South Carolina, Louisiana, Kentucky, Illinois and Missouri, judges are appointed or elected to fill their offices during good behaviour.

In Georgia, Alabama, Mississippi, Ohio, Indiana, Michigan, Arkansas and Tennessee, judges are elected or appointed for a limited period of years.

Thus it appears that 14 of the 26 States of the Union, have adopted in terms, the amendment proposed, and that three of four others have substantially adopted it by the limitation as to age, and where it is taken into consideration, that most of the constitutions which allow judges to hold their offices for life are the old ones, formed many years since, and that most of those constitutions which contain the principle proposed in the bill, are of recent date, and of late years with progress so rapid that a majority of the States and the people of the U. States, have decided in favor of the opinion that judges ought to be appointed for a limited period of years, and not for life. That a change has long been and now is more rapidly than ever taking place in public opinion on this subject may, it is thought, be attributed in a great degree to the fact that experience has now conclusively demonstrated, that the remedy by impeachment and address of both branches of the legislature is in effect a nullity, for after the process of half a century under it by all the States and the general government, it is matter of history that not one judge has ever been removed by impeachment, and in address, where no defence was set out for him and no witnesses have been examined by address, your committee are not informed of it.

The question comes to this, then, that judges are subject to no accountability or responsibility, whatever, but are invested with a perfectly despotic and uncontrolable power, or the principle must be adopted for appointing them for a limited years, instead of for life. Many other considerations of importance, connected with this subject, suggested themselves to the committee but the committee will forbear to pursue them further, and will close their remarks on this branch of the subject by quoting the opinion of Mr. Jefferson, an authority on constitutional law, to say the least of it, inferior to none. He says, "In England, it was a great point gained at the revolution, that the commissions of the judges, which had before been hitherto during pleasure, should thenceforth be made during good behavior. A judiciary dependent on the will of the king had proved it on the most oppressive of all occasions in the history of mankind. nothing, therefore, could be more salutary than a change in their tenure, so as to render them independent of the king. The question of good behavior left to the vote of a simple majority in the two houses of parliament. Before the revolution, we were all good English whigs, cordial in their first principles, and in their jealousies of their executive magistrate. The jealousies and apprehensions of our state constitutions and in the general government, in the instance. We have gone even beyond the English caution by requiring a vote of two thirds in one of the houses for the removal of a judge. A vote so impossible, when any difference is made before men of ordinary prejudices and passions that our judges are effectually independent of the nation. But this ought not to be. I would indeed, make them dependent on the executive authority, as they formerly were in England: but I deem it indispensable to the continuance of this government, that they should be submitted to some practical and impartial control. Nothing can be more objectionable than the present state of things. We have given to our judges salaries so high, that office should pass from hand to hand, and be held by many successive candidates, if we would have it so, but all cannot be judges; all know the influence of interest on the mind of men, and how unconsciously his judgment is warped by that influence. To this bias add that of the *esprit de corps* of their peculiar maxim and creed "that it is the office of a good judge to enlarge his jurisdiction, and the science of responsibility, and how can you expect impartial decisions?"—Vide Jefferson's memoirs, page 65.*

"All this, however, will work well; the nation will judge both the offender and the judges, for themselves. If a member of the executive or legislature does wrong, the day is not far distant when the people can remove him. They will see, too, and amend the errors in our constitution, which makes any branch independant of the nation. They will see that one of the great coordinate branches of the government setting itself in opposition to the other two, and to the common sovereign of the nation, proclaiming impunity to itself, and offering to render itself irresponsible as it is deemed, as to the constitution, and are themselves protected by the constitution itself, *for impeachment is a farce that will not be tried again.*"—Vide Jefferson Corres,ondance, Vol. 1, page 74.

"The further departure from direct and constant control by the citizens, the less has the government of the ingredient of republicanism, evidently none where the authorities are hereditary, and little when for life in proportion as the life continues in being after the act of election.

The purest republican feature in the government of our one state is the house of representatives. The senate is equally so the first year, less the second and so on. The executive still less, because not chosen by the people directly. The *judiciary seriously anti-republican, because for life.*

And add also that one half of our brethren who fight and pay taxes are excluded, like the rabble, from the right of representation, as if society were instituted for the soil and not for the men inhabiting it. Or one half of these could dispose of the rights and the will of the other half without their consent." Jefferson's correspondance, page 275 and 276, vol. 4.

"In England, where judges were made and removable at the will of an hereditary executive, from which branch much misrule was feared and has flowed, it was a great point gained by fixing them for life to make them independent of that executive, but in a government founded on the public will, this principle operates in a different direction and against that will—therefore they were still removable on the concurrence of the executive and legislative branches, but we have made them independent of the nation itself." Page 28.

On the second principle embraced in the bill, that is, that every free white male citizen of the United States, having the proper age and residence, shall be entitled to vote, the authority both of reason and precedent, is still more in favor of the proposition than that last discussed.

It has been urged against this principle that if all are permitted to vote, the ignorant and the vicious would have too much influence. But can all such influence be excluded by adopting the property qualification? is the possession of property the test of knowledge or of virtue? is the man who is ignorant and vicious to-day, to become intelligent and virtuous to-morrow because his father may die to right and leave him a negro, or his bag of money, or a plantation or a gross sheep, for either would entitle him to vote under our present constitution and laws. Not is it any more a valid objection, that the poor man ought not to have over equal influence with the rich one, because, having less property, he has less interest in the welfare of society than his rich neighbor. It is sufficient answer to this objection of horses, to head of cattle