THE VIRGINIA CONSTITUTIONAL CONVENTION.

OFFICIAL REPORT.

(CONTINUED FROM PAGE THREE.)

say that the great apostle of my life in political matters has been Thomas Jefferson. Thomas Jefferson is the man from whom I am willing to take my cue to-day, and he always trusted the people. Thomas Jefferson believed in the common people so much that he acquainted himself with their life not only in America, but in France. He made a journey of six months, living in the hovels of the peasantry of France, and he afterwards wrote to Lafayette and said, "Go and do likewise, that you may know the people." But all his investigation never made him lose faith in them.

I wish to read from the Democratic Campaign Text-book or 1892 an extract about Jefferson.

"Jefferson trusted the people absolutely. He detested a privileged class. He believed its existence dangerous, and he was opposed to any form or centralization of power. To him must be given the credit of American citizenship. No people on earth are as free even from caste as are the Americans, and this great privilege they owe to Thomas Jefferson."

I say we can afford to follow him rather than Hamilton. Listen, you Hamiltonians, who are in the Convention. Hear Hamilton's idea, and if it does not fit the case to-day, then I do not understand language. Those of you who say you can not trust the people to do the right thing, listen. Here is what John Adams said that Hamilton believed, and I suppose Adams was as near Hamilton as anybody:

"The proposition that the people are the best keepers of their own liberties is not true. They are the worst conceivable. They can neither judge, act, think nor will as a political body."

That is what you say—the people can not act or judge or think.

"Hypocrisy, simulation and finesse are not more practised in the courts of princes than in popular elections, nor more encouraged by courts than by the people."

That was the estimate which Hamilton put upon the people, while Jefferson, on the other hand, said you can trust them. You can submit to them the most sacred trust of this life. I desire to say, in the language of a distinguished American, that I have such admiration for Jefferson's views that—

"If all the dust and bones of every Philip, Ferdinand and Charles of Spain and Portugal, of every Louis, Henry and Charles of France, and of all the Plantagenets, Tudors, Stuarts and Hanovers of England were concentrated in one mighty urn, a single relic from Jefferson's remains, as they lie moldering on the slopes of the Blue Ridge, in Virginia, would be more precious than them all in the sight of a just God, and in the eyes of every lover of the human race.

Mr. Chairman, it has got to be the fashion here almost to look to England and to Hamilton and to men to whom we have never looked to before for our political cue. To such an extent is that true that we have become afraid that we may possibly hurt the feelings of some of our good friends over there by saying something about King George. We sweep the compass and get clear over the other side, but for myself I believe Thomas Jefferson was right and Hamilton was wrong. It was true then; it is true now.

Now, what are some of the objections that gentlemen urge as a reason why they will not submit the Constitution to the people? I have heard it so much and have seen it in the newspapers that it looks to me as though some of the newspapers were trying to make us proclaim the Constitution. They are saying the sentiment is growing the other way. But I do not know where they have been. I have been over in the great white section of the Valley, and I can speak for those people. There public sentiment is against proclaiming it. Public sentiment is not growing the other way. But every day that you discuss the question sentiment will grow stronger in favor of the submission of the Constitution to the people, whatever you may gather to the contrary notwithstanding. I have no way of knowing how the Convention will vote. I am not trying to dictate to any one. I am responsible to my own constituency and to my conscience, and to them alone.

Gentlemen say if you submit the Constitution to the people they will not know how to vote on it. I want to ask this question: How do the people know a good constitution maker if they would not know a good constitution when they see it? How did they know you were such a good constitution maker? How do I know that a man can build a house, unless I have seen him build one? The very fact that you presume that you know how to make a Constitution and that the people knew how to select you, presupposes that they have the power to tell a good Constitution when they see it.

Gentlemen say if we submit the Constitution to the people it will be defeated by the officeholders. I am not an officeholder, and I have no interest in any of them; but I do not believe that the officeholders of Virginia are a set of cutthroats. I do not believe that all the officeholders of Virginia are to-day seeking to scuttle the old ship. There are officeholders in this Convention. Are you men who hold office under the State of Virginia any less patriotic than we who do not hold office? The officeholders of Virginia are not a set of ninnies as a rule. I speak from what I know. They are generally patriotic men whom their fellow-citizens have delighted to honor, and every last one of them is looking out for the future. They are going to hold the best offices under the new Constitution. Gentlemen may watch out and see if it is not true. They know that the offices may be fewer, but that they will be better. If they had ever intended to defeat this Constitutional Convention move they would have brought their forces to bear when the question of Convention or no Convention was before the people.

But, said the gentleman the other day, all the people did not vote on it. That is the very reason why I feel that the people of Virginia wanted the Constitutional Convention, because if they had not wanted this Convention, you would have found them voting against calling it. The people of Virginia wanted the Constitutional Convention. They got together their best men and sent them here; but they sent them here under a pledge. They expect you to keep that pledge, and the officeholders and all the rest of the people of Virginia will, I believe, look at this matter in a patriotic way.

Some one else says the Constitution will be defeated by the corporations. If the corporations of Virginia had wanted to defeat it, I believe, so far as I am concerned, that they would have done the same thing. But further, if the corporations of Virginia own the people of Virginia, I want to know it. I want to make the battle right now and fight it out to the finish, and if they have their hands upon the throats of the good people of this Commonwealth, let us find it out, and, so far as I am individually concerned, if they win out, I can walk out of the State.

But the corporations of Virginia do not own the State. I do not believe they will even endeavor to defeat the proposed Constitution. I will say here that I have not seen a single solitary instance of an attempt upon the part of the corporations of Virginia to dictate to or shape legislation in this Convention. It may be that I have not seen it; but I say I know nothing of it. If any one of you do, you know more than I do. The corporations will not and cannot defeat the Constitution.

But, says the man who is scared, the timid brother, it will be defeated by the negroes. To my mind that is preposterous. The negroes had a chance at it. The corporations and the officeholders had a chance, and they did not defeat it. I ask you gentlemen of the black belt, How did you get here? How do you happen to be here if the negroes control down there? If you, representing one district, were able to cope with all that great race and horde of men of whom you are so scared now, how did you get here? Some of you may think in your minds that you got here in ways through which you do not want to get here any more. I have heard that. I do not advise you to do it, but if you have been cheating the negroes for a long time, rather than take away the liberties of the white people, let us cheat the negroes once more and get rid of them in that way.

You got here, and I am glad you are here, for I respect the gentlemen from the black belt. But we come from the great white section, where the white man is jealous of his rights. You might make the best Constitution that was ever made, theoretically as correct as that of Locke, and yet if you do not send it back to the people, and they do not have a chance to pass on it and put their stamp of approval upon it, it would be obnoxious and a stench in their nostrils. I speak to you the words of soberness and truth; I speak to you as one coming from the great white section of Virginia; and the gentlemen from the southwest will tell you the same thing. They will tell you what the white people of the great southwest are thinking.

Things are moving on. We are getting a greater population. Our people are becoming wealthy. They are becoming stronger, and if you want to be saved really, and if you want the white brethren to save you, come with us now, and we will take care of you in the future. Get behind the white men of the Valley and the Southwest, if you are afraid to make the fight, and we will help you. If you will give us a Constitution such as we ought to have, it will be ratified by the people of the Valley. The gallant little county of Warren will send you a thousand majority, and so will the gallant county of Clarke. All those counties will send you such majorities as will sweep off the face of the earth all the negroes that you may have in the black belt; and you need not be afraid or scared.

I believe it was at the battle of Manasses that the Federal forces were attempting to cross Bull Run and the Southern forces were lined up along the bank. They attempted to take ford after ford, but they could not. The Federals said "we will go around and storm the stone bridge and concentrate our forces there." They were about to win the day when Stonewall Jackson came in from the Valley with his men, with the hardy mountaineers, strong, vigorous, brave, as mountain people always are, and they won the day at the stone bridge. Again, when they were about to fall back Kirby Smith, with his brave mountaineers, from down the great Appalachian section, came in and won the day; and General Bee, as he stood there watching Stonewall Jackson, said, "See Jackson standing there like a stonewall. Rally behind him and the Virginians."

I tell you, gentlemen of the Convention, in no spirit of braggadocia, that you can rally behind the white people who are the descendants of the soldiers who fought with Stonewall Jackson at Manassas, and from there to Appamattox.

Mr. Chairman, so far as I am concerned, I represent citizens and not subjects. I want my action to be passed upon by them as white citizens, capable of determining great questions, and if we will submit the Constitution to the people at a time when there is no political excitement, in plenty of time for ample discussion, and put nothing in it here that we ought not to put in or do our very best, at least, you will find that the great white people of Virginia will come up to it, notwithstanding the corporations, notwithstanding the negroes, notwithstanding the officeholders.

I come here as a servant of my people, and not as their master, and as for me individually I shall vote every time for the ratification of the Constitution by the people, by a well selected lot of suffragans who, after they have passed upon it, will make it their law. If they vote it down it will be their consequence. If they do not want it they will take the responsibility.

One of the few men who said to me that he wanted us to proclaim the Constitution was my partner, for whom I have the greatest respect. He said the other day, "I want you to proclaim it." I said to him "Why?" "Well," he said, "we are going to make you all take the responsibility." I said "Yes, but I want you to take the responsibility, and I want the people to take the responsibility." After the money has been spent, if they do not want the Constitution, let them say so. We shall have done our best. We will go back to them with our work in our hands and say "we have served you faithfully. If we have erred it has been from the head and not the heart. If you do not want the Constitution you ought not to take it and I am not willing to force it down your throats."

I represent freemen. I represent citizens. I am not representing serfs or subjects. I will not be the first in our history to strike a blow at the Temple of Liberty. I will not be the first to endeavor to break this long line of precedents which has guarded and guided Virginians through the last century and a quarter.

I will not speak from a political standpoint, but I will give you a word of warning, because I love the principles that Thomas Jefferson taught. I warn you now, my fellow-Democrats, that if you proclaim this Constitution and do not give the people of the great white section of Virginia a chance to vote upon it—I am not speaking for the people of other sections—you are just as certain to pass the reins of political power into the hands of the Republican party as you are sitting here to-day, and that in no far distant day. Take warning. Let us keep the reins in our own hands.

You say "Yes, but we want to keep them in the hands of the white people." So we do, and the white people of the white section will stand by you; but do not take away their rights. Do not take away from them the privilege of voting upon the very fundamental law of the land, for if they are capable of voting on questions that will arise under the new Constitution, they are certainly capable of voting on their fundamental instrument.

We mistake when we think the common people do not know anything about political science. You go to the average man and ask him, "Do you know anything about the Constitution?" and he will say "No;" and he does not in the abstract. But submit to him the question whether we are to have religious liberty and freedom of conscience, and he knows how to decide it as well as you do. Submit to him the question whether we shall have the jury system, and he can decide it just as well as you, and perhaps better. So you can go over the whole category, and you will find that Virginians are natural-born lawyers. They are not only that, but they know the very fundamental principles of democratic government. They are embedded in their nature. You can trust the people to vote on such simple fundamental principles as we shall enunciate in the Constitution. I believe that thoroughly, or I would not caution you. I believe it, but if I did not believe it, I should have to stand for it.

I wish to say a few words more, and then I shall conclude. Without the sentiment of the people back of our Constitution it would amount to nothing, anyhow. Suppose you proclaim a Constitution that fifty-one members want and forty-nine do not want, and that the great majority of the people of Virginia do not want. What will become of it? It would not last a year. It would never be acquiesced in. It would be a mere cadaver. Gentlemen talk about the labor we are undergoing. But what would be the result when birth is given to this child. It would be stillborn, unless the people breathe into it the breath of life, and you might just as well never have had the labor, for it all will have been in vain.

I shall conclude, gentleman, by a quotation from the great American statesman, Webster, who, speaking of public sentiment, said:

"There is something on earth greater than arbitrary despotic power. The lightning has its power, the whirlwind has its power, and the earthquake has its power, but there is something among men more capable of shaking despotic power than the lightning, the whirlwind, or the earthquake, and that is the excited and aroused indignation of the whole civilized world."

I say to you gentlemen that, with all the great power we posses—greater than that of any monarch on earth—there is a power in Virginia greater than all that we can concentrate. It is the power of the enlightened public sentiment of Virginia, which is back of us demanding that you submit the Constitution to the people for ratification; and if you fail to do it, I believe verily you will rue the day of your political birth. And when you go back to your people and find that they are not in sympathy with what you have done, you will call upon the rocks and the hills to fall upon you and hide you from the wrath of this people, whom I think you will have misrepresented, and who to-day are trusting and honoring you, and to whom I look for redemption, and in whom I believe as implicitly as I do in my own integrity.

My colleagues, I ask you not to proclaim the Constitution, and consequently to adopt the proposition of the gentleman from Pulaski and say: "We, the delegates, do propose," instead of "We, the delegates, do proclaim." I thank you. (Applause.)

Mr. PARKS: Mr. Chairman, I desire to be heard, but I do not want to trespass upon the time or the patience of the Committee. I waited a moment to see whether some one would move that the Committee rise. I do not know what the wishes of the Committee may be upon that subject. If they wish to rise I am perfectly willing to postpone what I have to say until another day.

SEVERAL DELEGATES: Go on.

Mr. PARKS: It is just as the Committee wishes.

Mr. Chairman and gentlemen of the Committee, I shall be as brief as I can in what I have to say in the presentation of views that to my mind are very clear. When I was quite a young man, there was an old lawyer in my section who had a set preface to every argument he made. He would say invariably—no matter what the character of the case was—"Gentemen, as this is a case sui generis, I shall have to begin de novo, but as I am not affected with cacoethes loquendi I shall not speak ad litibitum." (Laughter.) To me this is a case sui generis. What I shall have to say will to me be new, because I have never before discussed it or heard it discussed. But by the brevity of my remarks I hope I will satisfy the Committee that I am not affected with the disease to which this old gentleman referred.

I ask for the adoption of the report of the majority of the Committee. While my name is not appended to the majority report, it is simply due to the fact that I was not present when the report was signed.

The Committee thought it wise and prudent and best to omit the long preamble that has preceded the Constitutions heretofore framed by Virginia, to omit the arraignment of George the Third, to omit the various whereases set forth in the preamble of other Constitutions framed by Virginia Conventions, and simply to take this as the preamble of the Constitution.

"Whereas pursuant to an act of the General Assembly of Virginia, approved March the fifth, in the year of our Lord nineteen hundred, the question, "Shall there be a Convention to revise the Constitution and amend the same?" was submitted to the electors of the State of Virginia, qualified to vote for members of the General Assembly, at an election held throughout the State on the fourth Thursday in May, in the year nineteen hundred, at which election a majority of the electors so qualified voting at said election did decide in favor of a Convention for such purpose; and

"Whereas the General Assembly at its next session did provide by law for the election of delegates to such Convention, in pursuance whereof the members of this Convention were elected by the good people of Virginia, to meet in Convention for such purpose.

"We, therefore, the delegates of the good people of Virginia, so elected and in Convention assembled, do ordain and declare the future form of Government of Virginia to be as followeth:

That is the preamble which the majority of the Committee thought was all that is necessary.

A minority report has been submitted by two members of the Committee which follows the form of preamble adopted by other Conventions, taking the old preamble prepared by Jefferson, in its arraignment of George the Third; then following with the Bill of Rights as written by Mason; then following with a recital of the fact of the various Constitutional Conventions that have been held by the State of Virginia since that time, except, I believe the Conventions held in 1861 and 1864. Then the gentleman from Portsmouth, (Mr. Hatton) presents an amendment, in which he follows the custom heretofore adopted of taking the preamble of the first Constitution and noticing the various Conventions that were held, and then he goes further than the minority report in that he recites the ratification of the United States Constitution by the people and also notices the Conventions that were held in 1861 and 1864. Then the gentleman from Pulaski, (Mr. Wysor) offers an amendment to the last clause of the minority report, which is in this language.

"We therefore, the delegates of the good people of Virginia so elected and in Convention assembled, do ordain and declare the future form of government to be as follows:"

But I will reach the discussion of the point after a while. It was thought by the Committee that the preamble which I have read was all that was necessary as a preamble to the Constitution which we are called upon to revise and amend. In adopting that preamble we would steer clear of calling attention to the Conventions that framed the Constitutions of 1861 and 1864 and the Convention that framed the Constitution under which we live to-day, known as the Underwood Convention; that we would not rake among the embers of the past and seek to stir up, anything that might occasion bitterness or strife.

Gentleman what is a preamble? What do we mean by it? What is its purpose? If we look at the etymology of the word it means a going before; literally, a walking before; and the purpose of a preamble to a law is to show the intent of the law. It is said that in order to show the continuity of government, as a matter of history, we should take up the preamble to the first Constitution, give it in totidem verbis, and then follow it with a recital that at various times since that period other Conventions have been called for the purpose of framing Constitutions. The gentleman from Portsmouth (Mr. Hatton) says that as a matter of history he would have this in the hands of every plough boy. I submit that the searcher after history, the student, would not care so much for the preamble as for what followed the preamble.

The long preamble, after reciting what George the Third did, goes on to say: "Whereas, in 1829-'30 a Convention was called by the people to frame a Constitution; and whereas, in 1850, another Convention met and revised and amended the Constitution; and whereas, in 1861, 1864 and 1867, other Conventions were called," reciting each one.

Mr. Chairman, it seems to me that what the searcher after knowledge would be interested in would be not simply a whereas, that a Convention was called which did revise and amend the Constitution, the student actuated by a desire to learn history and to see the continuity of government, would want the Constitution itself to see what those Conventions did, in what those amendments and revisions consisted; what were the changes made in the fundamental law of the land. They do not get it from the preamble. It is simply a recital that Conventions were held, and that the Constitution was revised and amended. What good can possibly follow from that?

Still, I am frank to say that if we are to look to the continuity of government, then I prefer the preamble of the gentleman from Portsmouth to the preamble prepared by the minority of the committee, because it sets forth under appropriate whereases every Constitutional Convention ever held in the State of Virginia to frame, revise, or amend the organic law of the State.

It is said further that we ought to retain the preamble as it was written by Thomas Jefferson, and that we ought to retain the Bill of Rights, intact, as it came from the pen of Mason. My good friend from Fluvanna (Mr. Pettit) says to do otherwise looks like sacrilige; that it would seem that we are slapping in the face those great men of former days; that we are departing from the paths they marked out for us; that we are ignoring the great principles they laid down for our government. Mr. Chairman, I yield the palm to no man in reverence and respect for those great men, for their devotion to principles, truth and justice. For their heroic self-sacrifice I honor them. I shall teach my children and my grandchildren to honor their memory and respect their worth. More than that, I shall come down to later days and I shall teach my children and grandchildren to respect the memory of all who struggled in defense of liberty and the rights of the people. I shall teach them that the tiny dewdrop sparkling on the grass that waves above the grave of Robert E. Lee or any other man who wore the gray, is worth infinitely more than the whole intellectual and physical frame of any man or set of men who would seek to detract from them.

More than that, I shall teach them to respect and honor this body of men here assembled, because while I know that Conventions in the past have had difficult and grave questions confronting them, I do believe that there are problems confronting us which are graver and more difficult than any that ever confronted a Convention in the past. But I do not subscribe to the doctrine which has been promulgated by some—by some perhaps in humor; by some in derision. I do not believe that Virginians are like potatoes, that the best of them are beneath the ground. Virginians have always risen up, grappled with, and settled and adjusted every question that confronted them in the interest of the people and in the interest of good government. And though these questions are grave and difficult, I do believe that this body here assembled will in the end settle and adjust and solve these great problems to the satisfaction of the people, and that generations yet unborn will rise up and call us blessed (applause).

Mr. Chairman and gentlemen, it is said further that we are changing or striking at the great principles and rights as set forth by Mr. Mason in the paper which he prepared, and that it ought to be kept intact. I would be among the last, Mr. Chairman, to strike down one single inherent right of the people. I would prefer to extend, if necessary, rather than to contract those principles. I would prefer to add to, if necessary, rather than to take from those principles. They are principles which were true when Mason indicted them. They have been true all these years. They are true now because they are principles of right and of justice, and they never change. All else may change. Change marks everything that is material. We ourselves are changing, and each successive generation is elbowing its predecessor off into eternity.

The tiny leaf springing from the expanding twig changes its color from summer beauty to autumnal loveliness and falls in withered worthlessness to the ground to teach man who treads upon it the lesson of his own destiny. The granite peaks that stand like so many sentinels keeping watch over the valley below, around whose head the lightnings of Heaven have harmlessly played, and upon whose crest the turid bolt, as it leaps from the bosom of the storm cloud, has spent its force in vain, will sucoumb to the corroding touch of time and pass away, but principles of right and justice, springing from the eternal throne of the Lord God Almighty will survive "the werck of matter and the crush of worlds" and shine with resplendent lustre when illumined by the bright light of eternity (applause). No, Mr. Chairman and gentlemen, I would not strike down a single principle.

But it is said that we ought to adhere to it because of sentiment; that there is a sentiment in it. I would not speak one word in disparagement of sentiment. Cold indeed, must be the soul, and barren the life, of the man without sentiment. Go with me and stand upon the old ocean beach when the storm king is riding in his majesty and displaying his power, playing funeral dirges upon foamy keys that cap the mighty billows, and as you stand and give vent to your imagination and your thought, think of Him who holds the water in the hollow of His hand, and what a noble sentiment goes up!

Go with me to the mountains that surround my own home, and as you stand upon those granite peaks and look at the rock-ribbed sides you wonder how this all came about. When the great Creator smote upon the anvil of existence and flaming worlds took their place in space, were these things then, or are they the result of some great upheaval; and as thoughts go up through nature to nature's God, so the soul must expand as we feel our littleness in the presence of those great things. Sentiment! Take sentiment out of the life of man, show me a man with no sentiment in his soul, and I will show you a man with stone enough in his soul to macadamize a road to Yubadam and iron enough in his constitution to construct a railroad to Hellgate.

I would not strike at sentiment, but there must be something practical along with sentiment. If a man enjoy sentimental Christianity, but not practical Christianity, he may hear the appeal for charity; he may join in the hymn of praise, throw back his head, close his eyes and fail to see the plate that is passed along to receive that which is substantial.

We have emobdied the Bill of Rights as Mason drew it, so far as every single principle of right is concerned. It is said: "Oh, but you change that Bill of Rights in some particulars; that the instrument of Thomas Jefferson set forth the wrongs which under George III. were sought to be inflicted on the colonies, but with each declaration of a wrong, there was a declaration of a corresponding right." That is true, but at the same time every single declaration of corresponding right was embodied in the Bill of Rights by George Mason, and we have embodied that Bill of Rights in our report, making it a part of the Constitution itself. Our changes are not changes as to any principle. There is not a change of any inherent right of man, but the changes are only such as we thought were necessary in order to adapt the principles underlying those rights to the conditions that confront us to-day.

For instance, one of the sections says—and that is objected to by the minority report—that no man shall be taxed or deprived of his property for public use without his consent. We inserted the words "or damaged in," making it read thus:

"That men * * * cannot be taxed, or deprived of, or damaged in their property, for public uses, without their own consent."

At the time when George Mason wrote the Bill of Rights this country was not threaded on every hand, in almost every county, and from State line to State line, with railroads. Corporations were not built up then as they are built up now. Large cities having control of their streets were not flourishing then as they are flourishing now. The demands of the people were not then what they are now.

If George Mason were living to-day and were to write that section, I verily believe he would put in the identical words "or damaged in."

Why is it necessary? Here is a great city. It lays off its streets out into the suburbs. Persons go upon invitation and buy lots bordering upon a street, build houses, fix their homes to suit themselves, and are enjoying life and all the benefits of their property. The city authorities think that that street needs grading. They go there and cut down the street five or ten or fifteen feet, and take that earth back and fill up five or ten or fifteen feet in another place. On the one hand, they leave the houses up in the air. On the other hand, they leave them below the street. They do not touch the property. That section of the Constitution says no man shall be deprived of his property. But in the cases I have used as an illustration they do not touch the property, and because they do not touch the property, do not take a single blade of grass, do not interfere with a single grain of sand, but leave the property standing where its owner cannot enjoy it, destroying absolutely the value of the property by placing it above or below the street, when the owner goes to court, the court says damnum absque injuria—damage without injury; loss, but you cannot recover.

I believe that the courts have erred in that; that they have stuck in the bark; that they have departed in their judgments and decisions from a proper consideration of property by looking at the corporeal substance of property and forgetting or ignoring the fact that one of the rights of property is the free use and enjoyment thereof without let or hindrance or interference on the part of either of individuals or the public.

But be that as it may, we thought that this amendment ought to go in, in order that no man should be damaged in his property for public use without his consent.

Then it is said that we have struck out the jury system, the great palladium of liberty. We have retained the jury system. We are not interfering with the jury system. We deny no man the right of trial by jury as to his guilt or innocence. The jury system is embedded in the hearts of the people and will, I take it, remain there. Its foundations are far down beneath the grasp of political earthquakes and its spires pierce the stars beyond the sweep of fanatical storms. But if you go back to look at the history of the jury you will find it very different from what we have it now. There was a time when jurors summoned to sit in judgment and decide a case were really the witnesses in the case.

Mr. WYSOR: May I interrupt the gentleman from Page?

Mr. PARKS: Certainly.

Mr. WYSOR: I understand that the preamble is the only matter of consideration before the body at present.

Mr. PARKS: I think not; I think the whole report is before the House.

Mr. WYSOR: The gentleman is discussing the Bill of Rights.

Mr. PARKS: The whole matter is under discussion, I understand. I am coming to that part of it. The whole matter is under discussion, I understand.

Mr. PETTIT: I think so.

Mr. PARKS: I so understand it. If I am in error, I wish to be informed, but I think the whole preamble and Bill of Rights are under discussion.

Mr. WYSOR: I understand the motion was that the Convention should resolve itself into Committee of the Whole for the consideration of the preamble. That was the motion.

Mr. PETTIT: The preamble and Bill of Rights.

Mr. PARKS: The preamble and Bill of Rights, as I understood it.

Mr. Chairman, there was a time when twelve men were summoned for jury service, and if they failed to agree, the minority were discharged and others were summoned in their places, and they would continue to discharge the minority until they got twelve who would get together and agree. Now whether or not a jury ex vi termini is a jury of twelve, is a mooted question among law-writers and among courts. There certainly can be no virtue in twelve.

We have simply proposed that the Legislature shall have the power to fix a jury of not less than seven. Now why is this? For the purpose of saving money, of cutting down expenses; and having had some experience in the matter, I believe that right along here there can be as much money saved in remodelling and revising the jury system of Virginia as along any other line.

Mr. WYSOR: I rise to a point of order. The CHAIRMAN: The gentleman from Pulaski will state his point of order.

Mr. WYSOR: The gentleman is not discussing the matter before the House. A week or two ago a resolution was passed by the body to consider first the preamble and then the questions which will arise on the Bill of Rights. The Convention to-day went into Committee of the Whole on the Preamble. The gentleman from Page is not discussing the preamble, but is discussing a matter not before the body, namely, the Bill of Rights.

The CHAIRMAN: The Committee of the Whole has before it the report of the Committee on Bill of Rights. A good deal of latitude has been extended to other speakers in this connection, and the Chair will hold that the point of order is not well taken.

Mr. PARKS: Mr. Chairman, I would not, for the sake of saving money, sacrifice the right of a citizen either in a civil or criminal case. We do not interfere with a criminal trial, so far as the jury is concerned, but we say that in civil cases the Legislature may provide that a jury shall consist of not less than seven.

This is no experiment, gentlemen. In the district now presided over by Judge Letcher, after the Legislature passed a law making it possible to do it without having the constitutional consent, Judge McLaughlin undertook and did establish that in his circuit; they have never in that circuit, in civil cases, I understand, a jury consisting of more than seven, and the gentleman from Rockbridge tells me that the members of the bar in that circuit are so well satisfied that they would not care to go back to the old system of having twelve jurors all the time. Look at the immense amount of money, as well as of time, trouble and loss that are occasioned to citizens who are required to serve on juries!

Then we provide that where in criminal cases a party pleads guilty, where he admits his guilt, the court shall impose the penalty of the law without the intervention of a jury. Gentlemen, in my experience as Commonwealth's-Attorney in my county, upon more than one occasion cases of this sort have occurred.

One happened just before I came to the Convention. In the trial of a criminal case one party came forward and pleaded guilty. The jury was impanelled, and the Commonwealth's-Attorney said to them, "the Commonwealth will be satisfied with the minimum penalty imposed by the law." The jury went to the room and refused to agree at all. We kept them a day and discharged them, and then we impanelled another jury. The same thing was said to them. They failed to agree. We had to have a third jury to fix the penalty of the law upon a man who had said, "gentlemen, I am guilty," and where the jury would not agree upon the term, when the Commonwealth told them, by its attorney, that the Commonwealth would be saisfied with the minimum term. That has occurred upon more than one occasion in my experience.

Now we say that when a man pleads guilty, acknowledges his guilt, the Court shall fix the penalty without the intervention of a jury. It seems to me that that is all that ought to be asked. Mark you, where the guilt or innoncence of the party who is to be tried is called in question, then the jury must decide it. His guilt or innoncence must be passed upon by a jury of twelve. But when he pleads guilty, acknowledges his guilt, we propose that without the intervention of a jury the Court may impose the penalty.

Those, gentlemen, are all the changes we have made, except, perhaps, changes of phraseology in the Bill of Rights. We do not strike out a single inalienable right of the citizen as enunciated by Mason, but we only seek to place those rights in such shape that they shall be adapted to the conditions that confront us now as a people.

Now, then, gentlemen, I will proceed to consider the question raised by the gentleman from Pulaski (Mr. Wysor), that we, the majority of the committee, say that we ordain and declare the future form of government. Now the report of the committee is in these words:

"The concluding clause of this preamble has been adopted in conformity with like clauses in the vast majority of the Constitutions of the other States, and does not, nor is it intended to, forestall or preclude any action which may be deemed wise and proper by the Convention in its submission."

The question that we are called upon to decide—and it is before this body now for decision—is whether this Convention shall promulgate the Constitution which it may frame and declare it to be the Constitution and form of government of Virginia, or whether it will submit it to the people for ratification and if so to what people. I acknowledge, Mr. Chairman, my regret that the discussion of this matter has been precipitated at this time. I would rather have waited for action upon it until we framed the Constitution, so that I could see what it was. I have no hesitancy now in saying that for one—others may do as they please; I accord to them honesty of conviction and of purpose—if such changes are made in the Constitution as I hope and believe will be made, I shall never vote to submit the Constitution to the present electorate (applause).

Now it is said that we ought to submit it to the people; that Thomas Jefferson had faith in the people. I have faith in the people. When Thomas Jefferson penned those lines he referred only to the Caucasian race and none other (applause). He alluded to the Aryan race alone, which is the only race God ever created that has shown the capacity for self-government (applause). There did not confront him at that time the question which confronts us now, whether when we are seeking to deprive the negro of the right of franchise, which he ought never to have had and ought never to have, we shall frame a Constitution depriving him of the right to vote and then say, "here, come up now and vote for this Constitution, which we have framed, which takes away your right to vote." Thomas Jefferson never would have said, he never, in my judgment, would have intimated any such proceeding as that.

I have no hard feeling whatever for the colored man. I feel kindly towards him. I was nursed in the arms of a colored girl and carried frequently in the arms of a colored man. The old cook at the old homestead where I was raised was known by me as "Black Mammy." All the name I ever did know for her was "Black Mammy." The last of that race was taken care of by me in my own home. He had what I had to eat; I furnished him his bed, his wood. One thing he never did; he never voted, even when I was a candidate; and he was the only one I ever heard of. You could not get him to register to save your life. He would not register neither would he vote. He requested that when he died he should be buried at the feet of his old mistrees, and I buried him at the feet of my mother in my own graveyard.

I have no hard feeling towards the black man—none in the world. I remember well the time when as a little boy I would go out to the woodhouse and rake up the chips and bring them in to the old black mammy, because she would promise me that she would save the brown crust from the hominy she used to boil in the big pots in the days gone by.

But, Mr. Chairman and gentlemen, I do not want any man to represent me or to have a voice in government who belongs to a race which, in all the ages of the world from the dawn of creation down to the present day, has never shown any capacity to govern itself.

Now, it is said we ought not to promulgate the Constitution. When we frame such a Constitution as I believe we will frame, I am in favor of submitting the Constitution to the electorate which is framed under that Constitution.

But it is said, why, that is submitting it to a restricted electorate, and there is a very great difference between submitting it to a restricted electorate and an extended electorate. Was it never done, gentlemen? I say it was.

The Constitution of 1850, if I mistake not, submitted to both a restricted and an extended electorate, because I think up to that time a man could vote in every county where he owned real estate. I was not a voter in those days; I do not want you to think I am so old as that; but the fact is that there were men who went around through several counties, or districts. They would go upon fast horses from county to county or district to district, on election day and vote wherever they had land.

The Constitution of 1850 prevented that, and therefore, to that extent the Constitution was submitted to a restricted electorate. The electorate was extended, it is true, and manhood suffrage declared. But the Constitution was submitted to whom? It was submitted to the electorate framed by that Constitution.

That is the principle, gentlemen, that I look at, not whether it is an abridged or an extended electorate, but we submit it to the electorate framed by the Constitution itself. That principle has been settled. We have a right to do that, and that is what I am in favor of doing.

Now, I come from a white portion of the State, the Valley of Virginia. It may seem singular to you, but I have had Republicans in my county, good men, for we have just as good citizens as there are in the State of Virginia in my county, socially financially, intellectually or otherwise, who are Republicans—I have had these men come up and ask me, "What are you doing down in Richmond?" I would go on and tell them. They would say, "I do not care what you do; do anything you please, just so you disfranchise the negro." Republicans tell me that.

I have had both Republicans and Democrats say to me, "Frame the Constitution such as you think we ought to have. We sent you there, and we are willing to trust you. Frame the Constitution and promulgate it, and do not put us to the trouble and expense of voting upon it."

That is the way some of my people feel. Still, as I said, I am in favor of submitting the Constitution to the vote of the electorate that is made by the Constitution which we here frame.

Now, then, my good friend from Pulaski over there (Mr. Wysor), whose genial countenance and friendly face attracted me the first time I saw him, though I heard much of him before, has vouchsafed to this Convention a matter of intelligence of which I was never aware before. He says we are not in the wilderness, we are not Israelites, but we are in the promised land. Verily a greater than Moses has arisen!

Moses did not arise by chance. It is true that in the history of the world the men for the place have seemed to float to the surface as if by chance. If Persepolis was to be burned, the hand of Alexander was ready to execute the deed. If a dancing wench pleased Herod, the most venerable of all heads must be sacrificed to satisfy the rage of her impure mother.

Moses was not reared by Pharoah's daughter by chance. He stood upon Sinai when the old mountain reeled and quaked and streamed with living lessons of terror, and he talked with God. Miraculously he and those he led were fed by manna and quails. He smote the rock and limpid waters flowed forth. But he was told to touch the rock. He disobeyed and smote it, and for this disobedience he was never permitted to enter the promised land, but in Nebo's Mount, with only the stars to witness the funeral obsequies, so far as history shows, he was buried, and the spot where he sleeps is known to no man. He was not permitted to enter the promised land.

Are we not Israelites? My good friend from Pulaski told us what he learned at his mother's knee to do when all else failed; and, Mr. Chairman, I pronounce the name of mother with reverence, for if there is any name known to human being more sacred than all others, it is that of mother. And I say here to-day that to my mother I am indebted for all the good that is in me.

My good friend from Pulaski said he learned at the knee of his mother that, while all else might seem lost, while clouds of trouble might envelop us, and waves of sorrow overwhelm the soul, we still found hope in prayer. True, be[illegible] by the power of that prayer to which we are commended hope will spring from the ashes of decaying life and make the rough edges of the grave appear the footscraper at the wicket of Elysium.

But my friend from Pulaski from that sainted mother could have learned another thing, that we are Israelites wandering through the wilderness still, because that Bible from which I know she drew her faith, says:

"And if ye be Christ's, then are ye Abraham's seed, and heirs according to the promise." * * *

"Israelites, indeed, in whom no guile shall be found."

Why, Mr. Chairman, we had a contention here as to whether we should strike the word "Christian" from the Constitution. It was sought to be stricken from the Constitution not because we desired that we should not be regarded as people believing in the Bible and all that it teaches, but because there was some objection on the part of our Hebrew brethren to it. We declined, however, to strike it out, not out of offense to them, because I have no word of reproach to those people. I have seen among those people some who are just as near angels as ever I saw in the Gentiles in this world. We know the part they played in the history of the past, and if I read the lines of prophecy correctly they have an important part yet to play in the great drama of life, and I believe the descendants of Judah will yet herd their flocks amid the hills of the Assyrian kings and sing songs to the Messiah beneath the white stars of the Chaldean skies.

With all respect for the gentleman from Pulaski, I say Israelites journeying through the wilderness. It is true that we do not hear the dashing of the waters of the Red sea in front nor the chariot wheels of Pharoah behind us, but in front lies what to us is worse than the Red sea—the fifteenth amendment of the Federal Constitution. Would to God that there was some Moses here to stretch forth his wand and lead us across that and through that dry shod!

If the gentleman from Pulaski has found this the "promised land," his journey has been a very different one from mine. If he has not come to the pool of Mava and found its waters bitter; if the Sons of Anok have never thrown themselves across his path as he struggled to accomplish some desired end, perhaps to gratify laudable ambition; if he has fed upon the grapes of Esabral and wandered over through a land flowing with milk and honey, certainly he is to be congratulated; but his life must have been a lonesome one, because I know of no one whom he would find a congenial companion.

Now, gentlemen, I say that with the lights now before me I am opposed to the proclamation of this Constitution by this Convention, and am willing to submit to the electorate formed by it, but I prefer, and I hope the Convention will agree with me, to defer action upon this matter until a later day, so that we can act intelligently. I take it that one committee reporting one provision of this Constitution, and another committee reporting another, even after they are all in, there will have to be motions to reconsider, there will have to be trimming, and there will have to be changes made in one provision and in the other, perhaps in the one first reported to make it accord with the one last reported. There may have to be changes made in all, so that the whole, when fitly framed together, shall form a perfect organic law, with no friction, with no jarring, but all in harmony.

I see no reason why action upon this matter should not be postponed to a time when we will be in a position to act more intelligently.

We need a revision of the present Constitution. I have no harsh words for the colored man. I would not take from him one single right that in my judgment he ought to have and that he is capacitated to use and enjoy for his benefit.

Mr. WYSOR: Will the gentleman from Page yield for an interruption?

Mr. PARKS: Certainly.

Mr. WYSOR: I understand you to say