Proceedings of the Constitutional Convention

OFFCIAL REPORT.

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tricts are allowed but one representative, and yet this favored institution, which has no place upon this board at all, is allowed, if the amendment of the gentleman from Loudoun (Mr. Fairfax) prevails, to still have one. The injustice of that is manifest. The impropriety of it is manifest, because in either event, whether it has one or two, this body, which saw the wisdom and the propriety yesterday of deciding that the other members of this board should be practical farmers, allowed in the one case one and in the other case two members of that instituion to be placed on this board, which in the one case would give equal representation to each congressional district and in the other twice as much representation, without any assurance whatever that either of them would be practical farmers.

Now, Mr. President, I think this change ought to be made, because this is a purely agricultural matter. The present agricultural system has proved a success, and experiments are dangerous. I think we ought to heed the words of warning that come from the farmers, as appear in this document upon my desk, which assures me my constituency are unanimously against this change. They want us to let well enough alone. Therefore, Ibeg the members of the Committee to pause long and seriously before you make a change which will, in any event, if only one is added, give one vote to an institution through the voice of a man who may not be a practical farmer against the ten votes of the practical farmers selected by the Governor, as provided in this Constitution, in the various congressional districts upon that board.

I hope it will be the pleasure of the body to heed this warning from the farmers, and to respect their wishes. In view of the fact that the system is now a success, I hope you will vote down this clause in the report which puts these new gentlemen upon the board, and that you will not allow the General Assembly the dangerous power to add any other men they may see proper upon this board.

The CHAIRMAN: The question is upon the amendment proposed to Section 1 by the gentleman from Loudoun (Mr. Fairfax), striking out the words in lines 9 and 20 of the report, the effect of which will be to make the president of the Polytecnic Institute a member ex-officio of the Board of Agriculture, and the president of the Board of Agriculture a member ex-officio of the Board of Visitors of the Polytechnic Institute.

Mr. STUART: Mr. Chairman, I desire to say that the amendment proposed by the gentleman from Loudoun (Mr. Fairfax) is acceptable to the committee, so far as I have been able to see the members, and so far as I have any knowledge of their wishes on the subject. It simply gives recognition to the views expressed by some gentlemen who are very much interested in this question, that it might be giving undue authority or undue weight and influence to one particular section of the State; and in order to give evidence of our desire to avoid any such condition as that, the committee, so far as I am able to represent them, will be very glad to accept that amendment.

As to who shall constitute the member from the agricultural board, it seems to me to be immaterial. So far as I am concerned, I shall have no objection to having the Commissioner instead of the President. I leave that matter, however, in the hands of the movers of the resolution.

Mr. O'FLAHERTY: I wish to state, Mr. Chairman, as a member of the committee, that it is absolutely satisfactory to me. I thought yesterday of making the same motion, only I did not know that it would be acceptable to the committee. I think it is a good solution of this matter.

The CHAIRMAN: The question is on agreeing to the adoption of the amendment proposed by the gentleman from Loudoun (Mr. Fairfax).

Mr. PORTLOCK: The chairman of this commitee, of which I happen to be a member, had not consulted me about the matter, but I simply want to confirm the suggestion made by him that it is satisfactory, at least so far as I am concerned.

Mr. GWYN: Mr. Chairman, I ask that the amendment may be read.

The Secretary read as follows:

Strike out in line 9 the words "the rector of the Board of Visitors and"; insert in line 10 the word "a" before "members" and strike out the letter "s" in the word "members"; in line 20 strike out the words "and the commissioner"; insert the word "a" after the word "be" in lien 21, and strike out the letter "s" in the word "members," so that it will read, beginning in line 9: "The President of the Virginia Polytechnic Institute shall be a member ex-officio of the Board of Agriculture and Immigration."

And beginning in line 20: "The President of the Board of Agriculture and Immigration shall be a member ex-officio of the Boar dof Visitors of the Virginia Polytechnic Institute."

The amendment was agreed to.

Mr. PARKS: I offer the following amendment, to come in at line 14. It reads now as follows: "The powers and duties of the same board shall be such as may be prescribed by law: Provided, it shall maintain its principal office at the capital of the State." I move to insert the following words in lieu of those I have just read: "The powers and duties of the said board and of the Commissioner of Agriculture and Immigration shall be such as may be prescribed by law: Provided, the principal office of the commissioner and of such board shall be permanently established and maintained at the capital of the State." I do not move to strike out the balance of that paragraph.

Mr. McILWAINE: I move as an amendment, sir, that instead of the words "principal office shall be permanently established and maintained at the capital of the State" to strike out the words "principal office" and substitute the words "the department of agriculture."

Mr. PARKS: I accept the amendment..

Mr. McILWAINE: So as to keep the whole thing here, and not merely a simple office.

Mr. PARKS: I accept the amendment, Mr. Chairman.

The CHAIRMAN: The gentleman from Prince Edward (Mr. McIlwaine) moves an amendment to the amendment, which has bee naccepted by the gentleman from Page (Mr. Parks).

Mr. STUART: Mr. Chairman, the amendment proposed by the gentleman from Page (Mr. Parks) is one which, on its surface, seems to be very little at variance with the views of the committee, as expressed in the report. It is the intention fo the report, as I understand it, to do something which has never been done before, either by Constitution or by statute in Virginia. That is, to provide that there shall be a Board of Agriculture. There has been no division of sentiment whatever, so far as I have been able to hear, as to the importance of inserting the word "shall" instead of the word "may." The committee, recognizing the importance of this board, have used the word "shall." That gives perpetuity to the department. As at present, the General Assembly has power to wipe it off the statute books entirely, it has power to move it anywhere it may choose, and as the gentleman from Page said, it had seriously under consideration two years ago, or at least had representatives before it, seriouely proposing that it should be abolished altogether, or if not abolished, to move it to some other point which would be equivalent to abolishing it.

Now it is to take this department out of this uncertain state, this precarious existence, that this committee has introduced this feature of the report. It seems to me that when we provide that this Department of Agriculture shall exist, and that its duties and powers shall be prescribed by law, that is about as little as we could safely leave to the General Assembly. I do not see how we could leave them anything if we do not leave them that much. We have felt that if the General Assembly shall prescribe the duties of the Board of Agriculture, and the Board of Agriculture shall elect its Commissioner, in effect it would deprive the board to some extent of proper administrative capacity to have one set of duties prescribed to the board and another set to the Commissioner, which might in some cases produce the very condition we are now trying to cure. When the duties of that board are prescribed by law, the powers of the board and the limitatons of the powers are clearly set out not only in dealing with the Commissioner, but in dealing with every other subject that may come before it. Now, if the Geenral Assembly shall undertake to define the powers of the board and the powers of the commissioenr it may define one set of powers for the department and one set for the commissioner, which would be entirely in conflict with each other, or might lead to conflict. It is to anounce the principle that the executive officer shall be elected by the board and shall be, as all other executive officers are, dependent upon the power of that board that this report is drawn. It is to leave that question in no uncertainty.

Now, if the committee thinks it unwise to modify or qualify the powers of the Board of Agriculture in dealing with the commissioner, it would be proper, perhaps, to adapt the suggestion of the gentleman from Page, but I have never seen any god result from extending power to a board with a string to it. If we intend this board to exercise discretion and power, and we have already provided that they shall be practical farmers, why attach this qualification and condition? It does seem to me their powers and duties could be defined, and that is sufficient.

Now, as to the location of the board, some people seem to think that the report is drawn for the express purpose of enabling this department to be moved from Richmond, whereas there is ample authority now to move it if it were desired; and this committee has written the first line, so far as I know, in the Constitution or on our statute books which tends in any way to curb the discretion of the General Assembly in that particular. I have said I thought it ought to be entirely discretionary with the General Assembly as to where this department should be located, or as to where the headquarters of the Board of Agriculture should be located. I called attention yesterday to the fact that the strong and cogent reasons were given for requiring the penitentiary to remain at the capital of the State were not considered favorably by this committee or by the Convention, but upon the contrary the General Assembly was left free to deal with that question as they might deem proper. Now, if the General Assembly fails to see any reason for keeping the penitentiary here—and the reasons for that are very much greater than for keeping this department here, although personally I am in favor of keeping it here, and see no reason why it should ever be removed—if it was deemed improper to qualify the control of the General Assembly in this regard in dealing with the penitentiary, how much more improper it is in this case.

Now, it says the principal office shall be here. It is desirable that there shall be branches. There may be State experimental stations, supplemented by Federal aid. There may be many varieties of cases coming before the General Assembly, or before this board, of a nature which it would not be well to prejudge. I think the report of the the purpose. It is absolutely impossible to move the department from here, in any proper or essential sense under this language. I cannot, therefore, see any good to be accomplished by this amendment. It is urged that there are animosities betwee nthe Board of Agriculture and the Polytechnic Institute which may result in a movement to get the department away from here. It is a recognition of the fact that there are such animosities which brought the committee to the very conclusion stated in this report. It is to cure these animosities, to make it impossible for those animosities to exist and to unite them in a common interest and put them in a boat together to sink or swim, so that they will have a common purpose in protecting their joint interests, instead of fighting each other. If this is not in the interest of peace between the two institutions, I am unable to discover any measure that could be presented for that purpose.

It is said there are some individual members of the Blacksburg board who woud like to see this department transferred there. If any man should think that, he would certainly be opposed to this report, for this is the only thing ever written, as far as I am aware, which absolutely and forever prohibits it.

The agricultural board is here required to be a permanency and its entity cannot be destroyed by any legislative act; hence it can never be lodged with Blacksburg. It is the only provision ever proposed which has for its express object the prevention of that very result.

Now, Mr. Chairman, I do not wish to be understood as antagonizing the interests of the city of Richmond in this matter, which are, to some extent, as we all know, local, and very properly so, but I do not see why this Convention or this committee should require a department of this kind to be located forever at the State capital, when it refused to do so in the case of the penitentiary.

Mr. PARKS: Mr. Chairman, in the first place, I wish to be distinctly understood as not intimating that the board of visitors at Blacksburg, or any officers at Blacksburg Institute, or any member of this committee, has contemplated for a moment the removal of the office of the board from the city of Richmond. Neither have I offered this amendment because of any predilection that I have for the city of Richmond in that particular. I have offered it, sir, for the purpose of settling the matter. This report says that the principal office of the board of agriculture shall be at Richmond. The board can have its office here and meet here. They can let out contracts for the fertilizer bags here, and they can remove the Commissioner of Agriculture, the museum, and the branches to Blacksburg, or wherever they please under this report. I want the department of agriculture kept at the capital of the State, so that the people can have access to it, and close to where all the other departments of the State are. If it is to be a department, then let it be a department of the State, co-equal with other departments of the State, recognized as such by having its habitat at the capital of the State.

Mr. STUART: I should like to have the amendment read again.

The Secretary read as follows:

Strike out lines 14, 15 and 16, down to and including the word "and," and insert in lieu thereof the following: "The powers and duties of the said board and of the Commissioner of Agriculture and Immigration shall be such as may be prescribed by law: provided, that the department of agriculture shall be permanently established and maintained at the capital of the State. The board"—

It would then read:

"The powers and duties of the said board and of the Commissioner of Agriculture and Immigration shall be such as may be prescribed by law: Provided, that the department of agriculture and immigration shall be permanently established and maintained at the capital of the State. The board shall elect and have power to remove its officers, among them a Commissioner of Agriculture and Immigration, whose term of office shall be four years."

Mr. EGGLESTON: Mr. Chairman, I desire to call the attention of the gentleman from Prince Edward (Mr. McIlwaine) to the fact that this department is called the Department of Agriculture and Immigration. I suppose he contemplates retaining the whole department at Richmond.

Mr. McILWAINE: Certainly, sir.

Mr. EGGLESTON: And that the word "immigration" should be inserted in the title of the department?

Mr. McILWAINE: Yes, sir.

The CHAIRMAN: That will be done if there is no objection.

Mr. KEEZELL: May I ask the gentleman from Page a question?

Mr. PARKS: Yes, sir.

Mr. KEEZELL: Would the scope of your amendment prevent them from having branches?

Mr. PARKS: The chairman of the committee just came to me and asked me about that and I said I had no objection to inserting in the amendment the words "with such branches as might be established." I have no objection to that.

Mr. BROWN: Mr. Chairman, before this amendment is voted on, I desire to ask the chairman of the committee if the committee will accept the following amendment: In lines 15 and 16 strike out the words, "its principal office," and substitute the words, "the Department of Agriculture and Immigration," so that the paragraph would read: "The powers and duties of the said board shall be such as may be prescribed by law: Provided, it shall maintain the Department of Agriculture and Immigration at the capital of the State, and shall," etc.

Mr. PARKS: It is the same thing, in other words.

Mr. STUART: That leaves the report in better shape, though, in view of the way in which it is presented, it mutilates the report much less than the proposition of the gentleman from Page (Mr. Parks), and accomplishes the same results, as I understand it.

Mr. PARKS: The gentleman from Bedford (Mr. Brown) keeps in the 14th and 15th lines the words, "the powers and duties of the said board," does he?

Mr. STUART: Mr. Chairman, I should like to ask a division of those two questions, that they be voted on separately. One involves the question of location and the other the question of authority. I should like those two propositions to be divided.

Mr. PARKS: I did not catch the gentleman's statement.

Mr. STUART: I say I should like to have the two propositions divided. Your amendment covers two separate points, one as to the location of this department and the other as to the powers and duties to be prescribed by law.

Mr. PARKS: I do not change the report as to that.

Mr. STUART: You say the powers and duties both of the board and the commissioner shall be prescribed by law.

Mr. PARKS: Yes, sir.

Mr. STUART: Whereas the report says the duties of the board shall be prescribed by law.

Mr. PARKS: Well, I think the power of both ought to be prescribed by law.

Mr. BROWN: Do I understand the chairman of the committee accepts this wording that I have proposed, and that the mover of the resolution accepts the wording as far as the proviso is concerned?

Mr. PARKS: Yes, sir. Read it over again, please.

Mr. BROWN: I will read it as the whole paragraph would stand: "The powers and duties of the said board shall be such as may be prescribed by law." I understand you to move to amend that part of it. Then under my proposition it would read further: "Provided, it shall maintain the department of agriculture and immigration at the capital of the State and shall elect and have power to remove its offices, among them a Commissioner of Agriculture and Immigration, whose term of office shall be four years. It would simply then leave your amendment to come up dealing with the first two lines, and would leave the latter part of the section amended as accepted by the chairman and yourself.

Mr. PARKS: I prefer my amendment.

The CHAIRMAN: The question is on the amendment offered by the gentleman from Page.

Mr. STUART: Mr. Chairman, I would be glad to have the question divided. It seems to me it is proper to do so. It involves two distinct propositions.

The CHAIRMAN: The Chair sees no objection to dividing the question. The first question would be on that part of the amendment of the gentleman from Page proposing to insert the words, "and the Commissioner of Agriculture and Immigration."

Mr. PARKS: I will state to the Chair, if he will indulge me a moment, that I have agreed with the chairman of the committee that the words, "with such other branches as may be deemed expedient," may be inserted.

Mr. STUART: With that further language in the amendment, I take pleasure in accepting the amendment, but I cannot accept the amendment as to prescribing the powers of the commissioner and the board.

The CHAIRMAN: A division of the question has been asked for and the vote will first be taken upon the proposition of the gentleman from Page (Mr. Parks) to insert in line 14 the words, "and the Commissioner of Agriculture."

Mr. STUART: Mr. Chairman, it is suggested that under the language of the gentleman from Page, unintentionally, no doubt, the branches also have to be in Richmond. That ought to be made clear.

Mr. PARKS: Certainly; I want that clear. We would not want any branches in Richmond. I had no idea of that. In whatever way it is inserted in the amendment, I want such other branches established wherever it may be expedient.

The CHAIRMAN: The Chair would suggest that the gentleman from Page alter his amendment in that regard.

Mr. PORTLOCK: I offer the following amendment, which is drawn to meet that point. I think the language will cover it. It is offered as an addition to the amendment of the gentleman from Page (Mr. Parks).

The Secretary read as follows:

Add after the word "State," in line 16, the words "with such branch offices as may be located elsewhere, as may be prescribed by law."

Mr. PARKS: I have no objection to that if it is acceptable to the chairman of the committee.

Mr. STUART: That is acceptable, sir, up to that point.

Mr. EGGLESTON: I desire to ask the chairman of the committe if he thinks it should be "branch offices" or "branches." As I understand, the department of agriculture is established in these test farms in different parts of the State. It seems to be apprehended that that would break up the arrangement unless they were at Richmond. Ought it not be "branches," instead of "branch offices?" You could not say a test farm is a branch office, and it would be a branch of the department.

Mr. STUART: I must confess, Mr. Chairman, there is a great deal in what the gentleman from Charlotte (Mr. Eggleston) has just said. The fact is these propositions are being sprung upon the committee so rapidly as not to give us time for mature consideration of the exact importance of them. I think whatever branches may be established should be branches of the department itself, and that they should have such powers as the department is capable of conferring on them.

Mr. WISE: Mr. Chairman, I would like to say to the chairman of the committee that it seems to me the amendment is not necessary at all. Under the amendment offered by the gentleman from Page (Mr. Parks), you could have these branch farms all over the State. There is nothing in his amendment which forbids it. It simply provides that the Department of Agriculture shall be permanently located in Richmond, and that amendment, in my opinion, will simply mystify, and not clear.

Mr. STUART: I must insist on that language, Mr. Chairman, because of the fact that I feel it is necessary to the full import of the whole article. I beg to differ with the gentleman from Richmond (Mr. Wise) as to the fact that the amendment is superfluous.

Mr. JAMES W. GORDON: I offer the following as a substute for that whole paragraph: "The said board shall elect for a term of four years a commissioner of agriculture and immigration, and shall also elect its officers. The powers and duties of said board and of said commissioner shall be such as may be prescribed by law; provided, that the Department of Agriculture and Immigration shall be located at the capital of the State, with such branch offices and experimental stations, to be located elsewhere, as may be prescribed by law. That will cover the experimental stations.

Mr. EGGLESTON: Does that mean that the Department of Agriculture cannot establish experimental stations except by an act of the Legislature?

Mr. JAMES W. GORDON: I think not, sir.

Mr. EGGLESTON: It seems to me that the words "as may be prescribed by law" would have that meaning.

Mr. JAMES W. GORDON: It says the powers and duties may be prescribed by law.

Mr. EGGLESTON: And then, when you get down further to the branch offices and experimental stations, you say they shall be established as may be prescribed by law. That takes it out of the power of the Department of Agriculture to establish these sections and puts it in the General Assembly.

The CHAIRMAN: The Secretary will read the substitute proposed by the gentleman from Richmond (Mr. Gordon).

The Secretary read as follows:

"The said board shall elect for a term of four years a commissioner of agriculture and immigration, and shall also elect its officers. The powers and duties of said board and of said commissioners shall be such as may be prescribed by law: provided, that the Department of Agriculture and Immigration shall be located at the capital of the State, with such branch officee and experimental stations, to be located elsewhere, as may be prescribed by law."

Mr. BROWN: Mr. Chairman, it does seem to me that we have reached the point where we are all practically seeking the same object. In none of these resolutions that have been offered amending this paragraph or proposing a substitute therefor, do I see anything except the report of the committee clothed in other language. I contend that the report of the committee, with the amendment I have suggested, and possibly with the addition of the amendment suggested by the gentleman from Norfolk county (Mr. Portlock) allowing the Board of Agriculture to maintain branch establishments, is the proper language to use in this report. We have in the report the provision that the powers and duties of the said board shall be such as may be prescribed by law. We have an amendment offered by the gentleman from Page (Mr. Parks) that the powers and duties of the said board and of the commissioner may be prescribed by law. It seems to me, though the language is different, the intent and purpose is the same; and furthermore the powers and duties of the board, unless prohibited by law, are more carefully guarded in the language of the report than is provided for in the language offered by the gentleman from Page.

The Board of Agriculture under the provisions of the report of the committee only has such powers and duties as may be prescribed by law. Those powers and duties have to be prescribed by the Legislature. When that provision of the legislative act is being adopted, the special provision as to the particular duties and powers of the commissioner can very easily be put in that act without a constitutional prohibition providing that the commissioner has only such powers as may be prescrbed by law. It does seem to me that the wording of the committee is the correct and proper wording, because it covers the whole ground.

Then, to proceed with the proviso which follows, it seems to me the amendment which I have offered and which has been accepted by the chairman of the committee, so that the section will read: Provided, it shall maintain the department of agriculture and immigration at the capital of the State," meets the objection that has been offered by the gentleman who offered other amendments.

It seems to me proper, too, if there is any possible misconstruction of this so that the State Board of Agriculture cannot maintain its branch farms in different parts of the State for experimental work, it would be wise to add such words as those suggested by the gentleman from Norfolk county (Mr. Portlock), but in in other respects it seems to me the language used by the committee is the proper language and covers the whole ground. It protects the department of agriculture from ever being removed from Richmond. It guards that point, which some of the friends of the department of agriculture seem to think has been attacked. It provides that the powers and duties of the whole board, including its powers over the Commissioner of Agriculture, shall be prescribed by law. It is compact, it has no useless prohibition, but it gives to this board only such powers and duties as may be prescribed by law; and it seems to me when there is so little difference of opinion, it is useless to mutilate the carefully worded language of the report as proposed by the Committee on Agriculture.

The CHAIRMAN: The question is on agreeing to the substitute proposed by the gentleman from Richmond (Mr. Gordon).

Mr. TURNBULL: Mr. Chairman, if I understand, the report of the committee provides that the Board of Agriculture shall not only prescribe its own duties but shall also prescribe the duties of the Commissioner of Agriculture. The amendment of the gentleman from Page (Mr. Parks) is in the nature of perfecting the committee's report. The gentleman from Richmond (Mr. Gordon) has offered a substitute for the whole section, as I understand it.

Mr. JAMES W. GORDON: To the entire paragraph.

Mr. TURNBULL: Now, the paragraph must be perfected, and the friends of the paragraph have an opportunity to perfect that before you submit the substitute, because if they do not, when the substitute is adopted, it will take the place of the paragraph.

Upon those questions the chairman of the committee has asked that the two amendments be divided and that the question as to the amendment of the gentleman from Page (Mr. Parks) be first submitted. It seems to me the proposition, beyond question, is to vote first upon the amendment of the gentleman from Page and then to vote on the amendment of the gentleman from the city of Richmond.

The CHAIRMAN: The gentleman from Brunswick (Mr. Turnbull) is entirely The question is first upon the first part of the amendment of the gentleman from Page (Mr. Parks) to insert the words "and the Commissioner of Agriculture," in line 14.

Mr. PARKS: I call for a division.

The first part of the amendment was rejected, there being on a division, ayes, 27; noes, 30.

The CHAIRMAN: The question recurs on the second branch of the amendment offered by the gentleman from Page.

Mr. STUART: If the gentleman from Page (Mr. Parks) will permit me, I desire to offer a suggestion that will perhaps smooth the tangle which we seem to be in. I submit this to see if it will not cover the point proposed: "The powers and duties of the said board shall be such as may be provided by law, provided that the department of agriculture and immigration shall be maintained permanently at the capital of the State, with power to establish and maintain branches of said department located elsewhere."

Mr. PARKS: I have no objection in the world to that. I think the department would have power to do it, anyhow, but I have no objection to putting it in there, so far as I am concerned.

The CHAIRMAN: Does the gentleman from Page accept the amendment?

Mr. PARKS: Yes, sir; I accept it.

The CHAIRMAN: The question is upon the amendment proposed by the gentleman from Russell (Mr. Stuart).

Mr. JAMES W. GORDON: Mr. Chairman, some of the gentlemen around here would like to hear the substitute that I offered read, as it has been changed.

Mr. WISE: Mr. Chairman, I raise the point of order that no amendment can be read here until this vote is taken. We are now in the midst of the vote upon agreeing to the amendment of the gentleman from Russell.

The CHAIRMAN: That is true, but as a matter of courtesy members have been allowed to give notice of an amendment or substitute.

Mr. WISE: But the substitute can be read immediately after the vote is taken.

The CHAIRMAN: That is true, and if the gentleman insists upon the point, the Chair will so rule. The Secretary will read the amendment offered by the chairman of the committee and accepted by the gentleman from Page in lieu of the amendment offered by the chairman of the committee.

The Secretary read as follows:

Strike out the words "provided it shall maintain its principal office at the capital of the State," and insert the words, "provided the department of agriculture and immigration shall be maintained permanently at the capital of the State with power to establish and maintain branches to be located elsewhere."

The CHAIRMAN: The quesion is on the amendment proposed by the chairman of the committee and accepted by the gentleman from Page in lieu of the amendment offered by him.

The amendment was agreed to.

Mr. HUBARD: I offer the following amendment.

Mr. O'FLAHERTY: How about the substitute offered by the gentleman from Richmond (Mr. Gordon)? Is not that in order now?

Mr. HUBARD: I am offering an amendment to the section.

The Secretary read as follows:

In line 18, after the word "immigration," insert the words, "who shall be a practical farmer." The sentence would then read: "a commissioner of agriculture and immigration, who shall be a practical farmer, whose term of office shall be four years."

The CHAIRMAN: The question is on the amendment proposed by the gentleman from Buckingham (Mr. Hubard).

Mr. PARKS: I think that amendment was adopted yesterday.

Mr. EGGLESTON: Mr. Chairman, I desire to call the attention of the committee to the fact that, whereas the article creates a board of agriculture, it does not directly create the office of commissioner of agriculture and immigration. It only does so by indirection in the latter part of the first section, where it directs the board to elect such an officer, but it does not create the office. It seems to me that at the end of the first clause of section 1 there should be added, "there shall be a commissioner of agriculture and immigration, whose term of office shall be four years."

Mr. STUART: This prescribes the manner of his election, and fixes the term of his office at four years just as effectually as anything you have proposed, except that it does not prescribe that he shall be appointed by the Governor, as heretofore; but it provides for the manner of his election.

Mr. EGGLESTON: I do not propose to interfere with that part of the section, Mr. Chairman, as to the manner of his election, but I simply suggest that the first part of the section creates a board and makes it a constitutional board. It seems to me that following that there ought to be a similar clause creating the office of commissioner of agriculture and immigration, and that the creation of his office should not depend on indirection by simply providing that the board shall elect such an officer.

Mr. STUART: Do you think that would add to the creation of the office in any way?

Mr. EGGLESTON: No, I do not think so, but I think it would be better form to put it in there.

The CHAIRMAN: The question before the committee is on the amendment of the gentleman from Buckingham (Mr. Hubard).

Mr. STUART: I ask that it be read.

The Secretary read as follows:

In line 18, after the word "immigration" insert the words "who shall be a practical farmer." It would then read: "and shall elect and have power to remove its officers, among them a commissioner of agriculture and immigration, who shall be a practical farmer, whose term of office shall be for four years."

Mr. STUART: Mr. Chairman, I dislike going on record as opposing a thing that sounds as well as that does, and yet it is not as good as it sounds. I do not want the discretion which is placed in the hands of this board to be complicated by the consideration of the question who is a practical farmer and who is not one. That is a thing that any ten men you can assemble in Virginia would differ about just as widely as it would be possible for ten men to differ on any subject.

Mr. BRAXTON: Will the gentleman permit me to interrupt him?

Mr. STUART: Yes, sir.

Mr. BRAXTON: Do you not think the accepted meaning of that phrase is that a practical farmer is a man who is engaged, at least at the time, in farming?

Mr. STUART: Undoubtedly.

Mr. BRAXTON: If that is true, would not the amendment offered prevent any existing commissioner from being reelected? If he had given up farming while he was holding his first term, he would no longer be a practical farmer, and could not be reelected.

Mr. STUART: That is true. I think it would be useless to put it in the hands of any board to decide as to who is a practical farmer. I think it altogether unnecessary, and that it tends to hamper unduly the discretion which should be and undoubetly will be exercised by the board.

Mr. O'FLAHERTY: Mr. Chairman, I understand the commissioner is to be a commissioner of agriculture and immigration. I do not see how his being a practical farmer would assist any in the matter of immigration. I think we should not insert that word. You might just as well say he should be a practical man in regard to immigration. The committee has taken this under consideration, and we did not think it would be practical to find out what a practical farmer is. In my own section of the State some of the best farmers I know of are lawyers. The question would then arise whether those men were practical farmers or not.

Mr. THOMAS H. BARNES: Are they good lawyers?

Mr. O'FLAHERTY: They are good lawyers too.

Mr. FAIRFAX: I should like to interrupt the gentleman to show the difference constructions that might be put upon this term "practical farmer". If that had been the language heretofore, it might have prevented the incumbent of that office from holding his position to-day. The present efficient commissioner of agriculture was not actually farming at the time of his appointment and the question might have been raised. I do not think it would have been safe to use such language as that. I do not think it means anything.

Mr. HUBARD: Mr. Chairman, I desire to substitute the following amendment for the one I offered before.

The CHAIRMAN: The gentleman from Warren (Mr. O'Flaherty) has the floor.

Mr. O'FLAHERTY: The gentleman from Loudoun (Mr. Fairfax) finished my speech much better than I could have done, and I am much obliged to him.

The CHAIRMAN: The gentleman from Buckingham (Mr. Hubard) withdraws the first amendment offered by him and offers another.

Mr. HUBARD: I desire to insert the words "Who shall have had experience as a farmer."

The CHAIRMAN: The question is on the amendment just offered.

Mr. HUBARD: I call for a division.

The amendment was rejected, there being on a division, ayes 5, noes 46.

Mr. JAMES W. GORDON: I now offer the substitute I sent to the desk, which has been changed in one respect, and I yield to my friend from Chesterfield (Mr. Hancock), who desires to address the committee.

The CHAIRMAN: The question is upon the substitute presented by the gentleman from Richmond (Mr. Gordon) which the Secretary will read.

The Secretary read as follows:

The said board shall elect for a term of four years a Commissioner of Agriculture and Immigration, and shall also elect its officers. The powers and duties of said board and of said commissioner shall be such as may be prescribed by law: Provided, That the Department of Agriculture and Immigration shall be located at the capital of the State, with such branch offices and experimental stations to be located elsewhere as the said board may see fit to establish.'

Mr. HANCOCK: I desire to offer the following amendment to the section before the substitute proposed by the gentleman from Richmond (Mr. Gordon) is passed upon: In line 13 strike out the words "ex-officio." The section as it reads now is, "The General Assembly may, in its discretion, add other members ex-officio to the said board."

The Committee of the Whole having stricken out "the rector of the Board of Visitors" of the Polytechnic Institute and only reained the president of that institution as an ex-officio member, it seems to me it is the intention of this body that there shall be only one ex-officio member.

The CHAIRMAN: The Chair suggests to the gentleman that that paragraph has been passed. His amendment is not germane to the question now under consideration, but we can return to that paragraph.

Mr. HANCOCK: That will be satisfactory to me, sir.

Thte CHAIRMAN: The question is on the substitute offered by the gentleman from Richmond (Mr. Gordon).

Mr. JAMES W. GORDON: Mr. Chairman, I desire simply to call attention to the difference between the substitute in its present form and the paragraph as it has been perfected by several amendments. You will notice that the paragraph as contained in the report, in lines 16 and 17, provides that the board shall have the power both of appointment and removal of this commissioner of agriculture and immigration. I understand that in years gone by there has been a good deal of friction between the board and the commissioner. It seems to me that in making a constitutional provision for this department it was better not to tie the hands of the commissioner, but to leave the matter of administration, and of rules and regulations, entirely to the General Assembly, and to allow the General Assembly to adapt its laws from time to time to the conditions as they arise.

It might happen in the future that it would not be a wise thing to put the commissioner so absolutely under the control and domination of the board as he would be if they had the power to remove him at will at any time, but if the Legislature thought that was a power that ought to be vested in the board, they could give it by general law. It seems to me it would be better to leave the duties and powers of both the board and commission to be prescribed from time to time by statute.

Mr. TURNBULL: Mr. Chairman, I raise the point of order that the substitute offered by the gentleman from Richmond (Mr. Gordon), under the circumstances, is not in order, because the committee has already refused to adopt the amendment of the gentleman from Page (Mr. Parks), which prescribes what the duties of the commissioner shall be; in other words, it has given the Legislature power to prescribe them, and the amendment of the gentleman from Richmond is exactly in that order, and nothing else.

Mr. JAMES W. GORDON: Mine was a substitute for the whole paragraph.

Mr. TURNBULL: The gentleman stated that the only difference between the paragraph he wants to substitute and this is to insert the proposition of the gentleman from Page, which has already been voted down.

Mr. JAMES W. GORDON: There are some other minor differences.

Mr. McILWAINE: Mr. Chairman, I do not suppose there is a board of trustees in the State of Virginia that has not entire authority over all of its officers. The board of trustees of Hampden-Sidney College could meet within a few days and vacate the office of president or professor; and so it is with every board in the State. It is called the board, to define the duties of those who are subordinate to it. It seems to me the action of the committee already taken on that subject is absolutely correct.

Mr. JAMES W. GORDON: May I ask the gentleman a question?

Mr. McILWAINE: Yes, sir.

Mr. JAMES W. GORDON: Has the Board of Education, as provided for by this Convention, the power to remove the Superintendent of Public Instruction?

The CHAIRMAN: The Chair does not desire to interrupt discussion, but he wants to rule upon the point of order raised by the gentleman from Brunswick (Mr. Turnbull). The Chair thinks the point of order is well taken, and that there is no practical difference betwen the substitute and the amendment offered by the gentleman from Page (Mr. Parks), which was voted down.

Mr. BROWN: Mr. Chairman, I desire to offer a further amendment to this section, which may meet the views expressed by the gentleman from Charlotte (Mr. Eggleston). I ask the chairman of the committee to pay attention to it, so that he may decide whether he will accept it. It is to strike out, in line 18, the words "whose term of office shall be four years," and insert after line 8 the words "there shall be a commissioner of agriculture, whose term of office shall be four years."

I think this meets the view expressed by the gentleman from Charlotte, and defines in the Constitution that there shall be a Board of Agriculture, and that there shall be a commissioner, whose term of office shall be four years. It simply strikes out in the latter part of the section the reference to the term of office, and leaves the rest of the section exactly as it has been reported.

Mr. EGGLESTON: I desire to call the gentleman's attention to another fact, that, whereas this report created a Board of Agriculture, it does not create a bureau or department. It creates the board, but it does not create the department. Now, I would suggest—and I feel some diffidence in doing so, because I know these gentlemen have given it a great deal of consideration— in lieu of this first paragraph, the following: "There shall be a Bureau of Agriculture and Immigration, under the control of a board composed of one member from each congressional district, who shall be practical farmers, and the commissioner of agriculture and immigration. Their terms of office shall be f— except that the members of the board first appointed from the odd-numbered congressional districts shall hold office for two years. This board shall be appointed by the Governor, by and with the advice of the Senate."

The object of the change, Mr. Chairman, would be, instead of creating the board, to create the department and put it under the control of the board. It seems to me that is the proper way to do it, if it is agreeable to the committee. I do not undertake to change any of the purport of their report at all, except to create the department instead of creating the board.

Mr. BROWN: I desire to ask the gentleman if this will meet his views—of course I am interested in the matter: "There shall be a Bureau of Agriculture and Immigration, which shall be under the charge of a Board of Agriculture;" and then go on with the wording as it is here. It seems to me that would practically meet his view, and make the matter very much more concise.

Mr. EGGLESTON: That will meet my view exactly, sir—"There shall be a Department or Bureau of Agriculture and Immigration, under the control of the Board—

Mr. BROWN: "Of a Board of Agriculture;" and then go on and define it.

The CHAIRMAN: The gentleman from Bedford (Mr. Brown) will reduce his amendment to writing and send it to the desk.

Mr. BROWN: I will read this as I have drawn it, and then send it to the desk: "There shall be a Bureau of Agriculture and Immigration, which shall be under the control of a Board of Agriculture and Immigration," and then follow the wording of the report.

Mr. EGGLESTON: Will you not say "under the management and control?"

Mr. BROWN: I accept the words suggested by the gentleman from Charlotte, so that it will read "management and control."

Te CHAIRMAN: Does the Chair understand that the committee accepts that amendment?

Mr. STUART: Speaking for myself, I accept the amendment.

The CHAIRMAN: The question is on the amendment proposed by the gentleman from Bedford (Mr. Brown) to section 1.

The amendment was agreed to.

Mr. HANCOCK: I move to strike out, in line 13, the words "ex-officio." As I said a while ago, the Committee of the Whole has determined that only one member of the faculty of the Polytechnic Institute shall be a member of this board ex-officio. I suppose the committee by this action intended to decide that there shall be no other ex-officio members of this board. But this section reads: "The General Assembly may, in its discretion, add other members ex-officio to the said board."

It seems to me the General Assembly should not be limited to the appointment of ex-officio members of the board. If the General Assembly should be of the opinion that other members, practical farmers, should be placed upon the board, and should deem it wise to have two or more members from each congressional district, I see no reason why its power should be limited. I hope these words will be stricken out.

Mr. LINDSAY: I move as a substitute that lines 12 and 13 be stricken out.

Mr. STUART: Mr. Chairman, the object of that section, or rather sub-section, the lines just referred to by the gentleman from Manchester (Mr. Hancock) and the gentleman from Albemarle (Mr. Lindsay), was to enable representative heads of various agricultural interests to become identified with this Agricultural Board, just as they are in a great many other States, and it is very important that they should be. Take, for example, the president of the Horticultural Board of this State. He would certainly be a very valuable member of this board in his official capacity. The president of the trucking association would be equally so, and it would tend to build up agricultural associations which would ask representation on this board and would still leave in the General Assembly authority to say what representatives of what associations should be entitled to such representation. It leaves that matter discretionary with the General Assembly as to what extent the varied developing agricultural interests of the State may receive recognition at their hands by being made ex-officio members of this board.

Mr. KEEZELL: Will the gentleman permit me to ask him a question before he takes his seat?

Mr. STUART: Yes, sir.

Mr. KEEZELL: Would not that be accomplished to a very great extent by the Governor appointing such men as that on this board, and thereby not disturb the equilibrium of the board as between the various sections of the State? I can very well see how some particular sections of the State, in which such interests predominate, might get a very large preponderance upon that board, and other sections of the State, in which the old lines of agriculture are carried on, would be in the minoriety.

Mr. STUART: It had not occurred to me that it would ever become a sectional question. I had hoped it would not, and I cannot well see how it can.

Mr WALKER: Will the gentleman permit me to ask him a question?

Mr. STUART: Yes, sir.

Mr. WALKER: Would not the object of the committee, which is to allow the General Assembly to appo