Again, this right of pardon does not extend to recent cases only, but to offences long since committed. After an individual has been some years in the penitentiary, he is to some extent lost sight of in the community. If an application is made in his behalf, the lapse of time, the death of witnesses, the forgetfulness of men, would make it impossible to act upon the case with the same facility, as if he were recently arraigned or convicted. In all these different cases, the degree of notice varies with the particular instance brought to the consideration of the Governor, and it should be left to his conscience to determine what was sufficient information to the public. After all he must finally determine for himself; and, however strong the resistance may be, he can under the power granted, exercise his discretion. If the object is to make him amenable to public opinion, the end will be accomplished by that comment, which must ensue, if the notice of application, which he directs, should be insufficient for public remonstrance.

There is no reason to prescribe the way in which this notice shall be given. It is not proper to say that it shall be in a newspaper only, because in thinly settled sections, the end may be attainable only by proclamation. The Governor will always conscientiously determine upon the means, which are sufficient to inform the public of the application made for clemency.

The question was then taken, and the substitute of Mr. GWINN was rejected.

The question recurred on the adoption of the amendment, as amended.

Mr. SPENCER moved for a division of the question, (upon striking out,) which was ordered.

And the Convention refused to strike out.

Mr. GWINN then read a substitute which he proposed to offer.

Mr. SOLLERS referred to a class of thieves against whom he was anxious to guard. They were the receivers of stolen tobacco; and were well known to the Executive Department. He referred to a case in which one of these depredators, whose guilt was notorious, who had got up a petition to the Governor, and obtained a *nolle prosequi*, when, had the fact of his application been known in his neighborhood, every respectable person there would have petitioned against it. Worse than that, this man was afterwards made a justice of the peace. He desired to protect the Governor against these deceptions.

After a few explanatory remarks between Messrs. TUCK and GWINN, in reference to the substitute of the latter,

Mr. GWINN moved his substitute, when

Mr. BRENT asked for the previous question.

The previous question was then ordered.

The question was then put on the substitute offered by Mr GWINN, and it was negatived.

The question recurring on the amendment of Mr. SOLLERS, as amended,

Mr. SPENCER moved for a division of the question.

The question was then put on striking out, and it was decided in the negative—ayes 27, noes 29.

Mr. DONALDSON moved to amend the section by inserting after the word "pardons," in the first line, the words "after conviction."

He said, every one must acknowledge that the power of granting pardons before trial and conviction, was liable to great abuse; but to his mind the abuse of it seemed so certain and the benefits derived from its used, so insignificant, that he thought it ought to be entirely taken away. The power of pardoning after conviction he would still retain. There were many cases where it could be used beneficially, and the cause of justice was in fact promoted by its judicious exercise. It was sometimes necessary to protect innocence against the prejudice and excited pass ons which have usurped the place of judgment; facts might come to light after conviction, which if known before trial, would have produced an acquittal; a man might be technically guilty of a criminal charge, and yet the circumstances might be such as would make it unjust or peculiarly harsh, that he should suffer the penalty by law affixed to that crime; and the subsequent conduct of a convicted man might be such as to call for some mitigation of his punishment This reserved power of mercy in the Executive, when properly exercised, gives greater certainty to the administration of justice by our courts and juries. Even that power should be more checked, than it is by the sections under consideration, and he proposed, if not cut off by the previous question, to offer another amendment, requiring the Governor to report all these cases to the Legislature, whether called upon or not. But in regard to the amendment now proposed, he would say, that he did not know of a case in our present state of society in which a pardon, before conviction, would be productive of any benefit worth estimating, when compared with the evils arising from the exercise of such a power. The only just ground for exercising the power, was for the protection of innocence. And what innocent man, when suspicion is once attached to his name, would not court, rather than evade, a trial? If evidence enough, of whatever sort, could be produced against him to cause a grand jury to present him a fair, and open trial was his only protection from the tongues of calumny. If a false and malicious accusation could be entirely smothered by a pardon, then there might be some reason for retaining the power, but the slightest whisper of such a charge is caught up by the public press and spread far and wide. In these times, there is no power to seal the accuser's lips, and he who seeks, by the interposition of the Executive, to shield himself from trial, fixes on his character a stain that cannot be effaced.

Mr. D. called upon those who opposed this amendment, to state the cases which justified such an interposition, that they might be tested, to see whether there was any thing to outweigh the great public policy of permitting the administration of justice to take its course until judgment was rendered. This is a matter in which all good citizens are deeply concerned, and the manner in which the pardoning power had been abused, is a subject of general complaint. To place these restrictions upon it, would be a reform which might not commend itself to the poli-