the resolution by Mr. Robertson, of Bell, concerning the employment of a phonographic reporter

Mr. Mills offered the following amendment

That said phonographer shall report said debates in a round, legible hand, ready for the printer, without additional charge

Mr. Allison moved to postpone action on the question until to-morrow

Lost

The amendment of Mr. Mills was then adopted

The resolution was then adopted

On motion of Mr. Henry, Mr. Ramey was added to the Committee on Legislative Department

Carried

Mr. Robertson, of Bell, moved to add Mr. Henry, of Limestone, to the Committee on Taxation and Revenue.

Mr. Dohoney moved to add Mr. Rugel to the Committee on Legislative Department

Carried

Mr. Russell, of Harrison, moved to add Mr. Holmes to the Committee on General Provisions.

Carried

Mr. King moved to adjourn to 9 o'clock a.m. to-morrow

Carried

NINTH DAY

Hall of Representatives, Austin, Texas, September 15, 1875

Convention met pursuant to adjournment, roll called, quorum present. Prayer by Rev. Dr. Dodge.

On motion of Mr. Ferris, Mr. Smith was excused from attendance on account of sickness.

Journals read and adopted.

The following is the report from Committee on Printing and Contingent Expenses:

To the Hon. E. B. Pickett, President of the Convention.

Your Committee on Printing and Contingent Expenses having received a proposal from Messrs. C. Von Boeckmann & Son to print the constitution, about to be framed, in the German language, in pamphlet form, small pica type, including translation, at the rate of one third of one cent (\(\frac{1}{3}c\)) per page, have had the same under consideration and have instructed me to report.
"That they consider the proposal a reasonable one, and in as much as many German citizens of the State are unable to read the English language, they recommend that three thousand copies of the constitution be printed in the German language, and that the contract for doing such printing be awarded to said C. Von Boeckmann & Son

"W. D S Cook, Chairman"

Report was adopted.

Mr Cook, of Gonzales, from Committee on Printing, asked leave for his committee to retire

Permission granted.

Mr Weaver moved to reconsider the vote adopting report from Committee on Printing, just taken, to print three thousand copies of the constitution in the German language.

Mr Rentfro moved to lay the motion on the table

Carried.

The following is the report from the Special Committee

To Hon E. B. Pickett, President of the Convention

The select committee to whom was referred the resolution to select an Assistant Door-keeper for the Convention beg leave to report that they have had before them the Sergeant-at-arms and other officers under him, and having inquired fully into the matter, are satisfied there is no necessity for an Assistant Door-keeper. The officers now are Sergeant-at-arms, Assistant Sergeant-at-arms, Door-keeper and three porters, which the Sergeant-at-arms informs the committee are ample to do the work without further addition. Indeed, he has already made the arrangements necessary to have the duties incumbent on the officers on the floor of the Convention performed promptly and efficiently, and so distributed as not to be specially burdensome on any one of them. We therefore recommend that the resolution do not pass.

Kilgore,
Brown, of Dallas,
West

Adopted.

The following is the report from Select Committee on Resolutions providing for an election in the Fifteenth Senatorial District:

Committee Room, Austin, September 15, 1875

To the Hon E. B. Pickett, President of the Convention

Sir—Your select committee to whom was referred the resolution providing for an election in the Fifteenth Senatorial District, to fill the vacancy caused by the resignation of the Hon
M. H. Goddin, of Walker county, have had the same under advisement, and respectfully ask leave to report the following resolution and recommend its adoption.

Resolved, That a vacancy having occurred in the representation of the Fifteenth Senatorial District in this Convention by the resignation of the Hon M. H. Goddin, of Walker county, His Excellency the Governor be and is hereby authorized and requested to order an election to be held in said district to fill said vacancy on Saturday, the 25th day of September, 1875.

Respectfully,

E. W. Brady, Chairman, for Committee

Mr. McCormick offered the following substitute:

Whereas, It appearing to the satisfaction of the Convention that at the election held for delegates thereto in the Fifteenth District, one M. H. Goddin, of Walker county, received the certificate of election, and it appearing to the satisfaction of the members hereof that said M. H. Goddin is and was at the time he received the certificate of election non compos mentis and therefore ineligible to a seat in this Convention

And it further appearing that at the election for delegates in said district D. C. Dickson received the next highest number of votes, and that said Dickson is a pure, good man and the true representative of the good people of the said district,

And further, that the said Goddin having in a fit of drunkenness and passion, resigned his seat in this Convention, therefore be it

Resolved, That in the opinion of this Convention the said D. C. Dickson is the true representative of the good people of the Fifteenth Senatorial District.

Resolved further, That D. C. Dickson, upon taking the oath prescribed by the Convention, is admitted to a seat in the same.

Mr. McCormick moved to refer report and substitute to a select committee of five.

Lost.

Mr. Flournoy moved to lay the substitute on the table. Carried.

The question recurring on the adoption of the report of the committee, Mr. Crawford moved to postpone action on the matter and make the subject special order for to-morrow after the morning call.

Mr. Martin, of Navarro, offered the following amendment:

Said election to be ordered by the President of this Convention.

The amendment was lost.
Mr. Dohoney offered the following amendment

Strike out of the resolution the word “request” and insert “authorize”

Mr. Johnson, of Franklin, offered the following amendment:

Strike out the word “requested” and insert the word “instructed”

Mr. Sansom moved to lay amendments on the table, whereupon the yea and nay were called, and the Convention refused to lay the amendments on the table by the following vote:

Yea—Messrs. Abner, Brady, Cooke of San Saba, Cline, Davis of Brazos, Davis of Wharton, Flournoy, Fleming, Ferris, Henry of Tyler, Henry of Limestone, Killough, McCabe, Mitchell, McCormick, Norvell, Paul, Reagan, Reynolds, Rentfro, Ross, Russell of Harrison, Russell of Wood, Sansom, Wade, West—26


Mr. Johnson, of Franklin, withdrew his amendment

Mr. Dohoney’s amendment was accepted and the resolution of the committee adopted.

Mr. Flournoy moved to reconsider the vote just taken and lay that motion on the table

Carried

Mr. West, by leave, submitted the following reports from Committee on General Provisions:

**Committee Room,**

**Austin, September 14th, 1875**

To the Hon. E. B. Pickett, President of the Convention

The Committee on General Provisions, to whom was referred a resolution to fix the tax valuation of lands in this State, beg leave to report that they have examined the same and recommend that it be referred to the Committee on Revenue and Taxation

Respectfully submitted,

C. S. West, Chairman.
Committee Room,
AUSTIN, September 14, 1875

To the Hon E B Pickett, President of the Convention
The Committee on General Provisions to whom were referred two resolutions as to Spanish and Mexican land titles, beg leave to report that they have examined the same and recommend that they be referred to the Select Committee on Spanish and Mexican titles

Respectfully submitted,
C S West, Chairman

Committee Room,
AUSTIN, September 14, 1875

To the Hon E B Pickett, President of the Convention
The Committee on General Provisions to whom was referred a resolution as to the payment of the costs of charters by all private corporations, beg leave to report that they have examined the same and recommend that it be referred to the Committee on Private Corporations

Respectfully submitted,
C S West, Chairman

Committee Room,
AUSTIN, September 14, 1875

To the Hon E B Pickett, President of the Convention
The Committee on General Provisions to whom was referred a resolution as to validating certain land certificates, have examined the same, and beg leave to recommend that the same be referred to the Committee on Public Lands and Land Office

Respectfully submitted,
C S West, Chairman

Committee Room,
AUSTIN, September 14, 1875

To the Hon E B Pickett, President of the Convention
The Committee on General Provisions to whom was referred a resolution restraining the Legislature from levying any tax except for revenue purposes, beg leave to report that they have examined the same and recommend that the resolution be referred to the Committee on Legislative Department

Respectfully submitted,
C S West, Chairman
Committee Room,

Austin, September 14, 1875

To the Hon. E. B. Pickett, President of the Convention

The Committee on General Provisions, to whom were referred a series of resolutions as to the salary of the Governor and other State officers, beg leave to report that they have examined the same and recommend that the resolutions as to the salary of the Governor, Secretary of State, Comptroller, and Superintendents of the different Asylums, be referred to the Committee on Legislative Department, and that the resolutions as to the salaries of the Attorney General and District Attorney be referred to the Committee on Judiciary Department.

Respectfully submitted,

C. S. West, Chairman

The following is the report of the Superintendent of Education, complying with a resolution of the Convention passed on the 13th instant.

Department of Education, State of Texas,

Austin, September 14, 1875

To the Hon. E. B. Pickett, President of the Convention

Sir—I have the honor to acknowledge the receipt of a resolution passed by the Honorable Convention on the 13th inst., requesting certain information relative to the school affairs of the State, as follows, viz.

Resolved, That the Superintendent of Public Instruction be requested to furnish this Convention (1) the scholastic population of the State, (2) the amount of money distributed per capita for the year 1875, and (3) the amount of money required to maintain public free schools in this State for four months each year; and (4) the amount due teachers for services already performed.

Responding to said resolution, I have the honor to reply as follows, viz.

1. The census of the scholastic population of the State was taken between the dates July 4, 1874, and November 20, 1874, in almost every county. The total scholastic population of counties from which reports were received, and estimates from the best data in this Department for counties from which reports were not received, give in the aggregate three hundred and thirteen thousand and sixty-one children (313,061).

The law requires the census of scholastic population be taken annually, on the first Saturday in July. The census returns, due for 1875, have not all been received at this Department. The number is largely increased over the reports of 1874, and
we estimate the present scholastic population at three hundred and fifty thousand (350,000).

2. The amount appropriated from the State School Fund for the year ending August 31, 1875, was five hundred thousand dollars, ($500,000), but for convenience in distributing, the sum of $499,959.05 only was apportioned, which gave, per capita, one dollar and fifty-nine cents ($1.59), to the scholastic population.

3. In response to the third inquiry of the honorable Convention, I beg to suggest that we find some difficulty in answering. Under the law as it now stands the salaries of teachers vary to an extent that renders it impossible to determine what might be the actual expenses of public schools for four months.

The returns in this department for the year ending August 31, 1874, show the cost per pupil in the public free schools, as averaged throughout the State, was $1.56 per month, or $6.24 for four months. The returns in the aggregate for the scholastic year ending August 31, 1875, show a great variation in the price of tuition per capita in the several counties of the State. In counties where there has been proper administration by the local officers, the rate per month for each pupil has not exceeded seventy-eight cents; while in other counties where there was a neglect of public interests and a total disregard to economy, the cost per capita has been reported as high as two dollars per month. We are satisfied, however, that throughout the State the cost per pupil for each month in the public free schools, during the scholastic year ending August 31, 1875, has not exceeded one dollar and fifty cents, ($1.50), or six dollars for four months, per capita.

The annual report from the county officers were not due to this department until the close of the scholastic year, August 31, 1875; I am, therefore, unable to give the total cost of that year from actual reports. We may, however, safely estimate that under a proper administration, which can be secured by a wise law, the rate of tuition per month, per capita, need not, nor should it exceed in the aggregate $1.50, giving as the total expense for four months tuition of 350,000 children the sum of two million and sixty thousand dollars, ($2,060,000).

4. I regret my inability to answer, at present, the amount due teachers for services already performed. As heretofore stated, the annual reports from county officers, which contain the data from which that amount will be ascertained, were not due until after the 31st ultimo; I trust, however, that said.
On motion of Mr. Russell, of Wood, two hundred copies of the report were ordered printed.

Mr. McCormick offered the following resolution:

Resolved, That the substance of the following sections be incorporated in the proposed constitution:

"All male citizens of this State, between the ages of sixteen and forty-five years, shall be required to work upon the public roads of this State, under such regulations and exceptions as the Legislature may prescribe.

"The Legislature shall enact such laws as may be necessary to keep open and in good repair the public roads of this State, and may authorize the levy of a tax of not more than one-tenth of one per cent. upon all the property in the State, to be used in building bridges and keeping the same in repair, provided that the tax collected shall be expended in the county paying the same."

Referred to Committee on General Provisions.

Mr. Russell, of Harrison, offered the following resolution:

Whereas, Under the present constitution "all unsatisfied genuine land certificates shall be surveyed and returned to the General Land Office by the first day of January, 1875, or be forever barred;" and

Whereas, There is now in existence and outstanding unsatisfied genuine land certificates that were not surveyed and returned to the General Land Office, as prescribed by the constitution, and are now barred; and

Whereas, A number of the holders and owners of said certificates were debarred from locating, surveying and returning said certificates, as prescribed by the present constitution, by reason of the same having been lost and no time existed for application for duplicates, and for other good and valid causes beyond and without their control; and

Whereas, A number of the holders and owners of said certificates had, previous to January 1, 1875, located the same in good faith, in accordance with the requirements of the constitution of 1869, and it has since transpired that without any fault or neglect of the said parties their certificates were located on lands previously located, and there remained no sufficient
time to have the same relocated prior to January 1st, 1875, therefore

Be it resolved and ordained by the people of Texas, in Convention assembled, That the rights and interests of the holders and owners of all unsatisfied genuine land certificates in existence, but not located, returned and surveyed as prescribed by the constitution of 1869, on the first day of January, 1875, shall not be affected by reason of the non-location, survey and return of the same, nor shall the validity of said certificates be affected, but that said certificates shall be revived and in full force and effect, and shall be subject to location, return and survey on any of the unlocated lands of the State for five years next after the adoption of this constitution

Referred to Committee on Public Lands and Land Office

Mr. Erhard offered the following resolution

Resolved, That those delegates from counties adjacent to the frontier, or such counties wherein no newspapers are published, be allowed thirty copies each of some paper in the city of Austin which publishes the proceedings of this Convention, in order that said people may be informed of the proceedings of this body, and that said members make a report according to the provisions of the foregoing

Referred to Committee on Printing and Contingent Expenses.

Mr. Pauli offered the following resolution

Resolved, That any Justice of the Peace in his own precinct of jurisdiction act as administrator pro tempore in all cases where impartial and immediate action in regard to the estate of a deceased person is necessary

In all cases where the Justice of the Peace is notified of the death of a person in his precinct, he shall at once summon three, or as many citizens of good standing as may be prescribed by law, to investigate—

First, how the person so deceased came to his or her death, namely Whether from natural cause, by accident, or through violence committed by some other person or persons. If from the latter cause, the Justice of the Peace is to issue at once the necessary warrant or warrants for the immediate apprehension and arrest of such offender or offenders, and the same be brought to justice

Second If the estate of the deceased, either by the last will and testament or by virtue of relationship, is assigned to an administrator, then to report this fact to the County Court

Third If the estate is left without protection, and no person attainable who has a legal right to administer on said estate, or
if under the circumstances the same needs immediate attention to keep it from being squandered—under the latter probabilities the Justice of the Peace shall, with the assistance of the three already summoned citizens, or as the probate law of the county may direct, take an inventory of all the property of the deceased, real and personal, and make returns thereof without unnecessary delay to the County Court in open session. The property so returned shall then remain under the protection and management of said court, for such length of time and under such regulations as may hereafter be provided for by law in this State.

Resolved to the Committee on Judiciary

Mr. Ballinger offered the following resolution.

Resolved, That the Committee on the Judiciary Department shall provide in the article on that department.

"Sec. — That the Supreme and District Judges of this State shall be appointed on the nomination of the Governor, by and with the advice and consent of the Senate." The form of each nomination shall be in substance as follows:

"I herewith nominate to be Judge of ..., and I declare that he is, in my judgment, the best appointment to be made to that office, without regard on my part, to personal or partisan considerations."

"That such nomination shall not be acted on by the Senate for at least ten days, during which time the Governor shall, when requested by the Senate, appear before the Senate and give them information and hear their advice respecting such nomination; and the Governor shall also, at their request, lay before the Senate all recommendations of said nominee and of all other persons for such office."

Resolved to Committee on Judiciary

Mr. Reutro offered the following resolution.

Resolved. That the following be and constitute the preamble to the State constitution, to wit:

"PREAMBLE

"We, the people of the State of Texas, acknowledging with grateful hearts the goodness of the Great Legislator of the Universe, in affording us, in the course of His providence, an opportunity, deliberately and peaceably, without fraud, violence or surprise, of entering into an original, explicit and solemn compact with each other, and of forming a new constitution of civil government for ourselves and posterity, do agree upon, ordain, and establish the following declaration of rights, and frame of government, as the constitution of the State of Texas.""

Resolved to Committee on Bill of Rights
Also, by Mr Rentfro, the following resolution:

Resolved, That the following provision shall be incorporated in the State constitution under its appropriate caption, to wit:

"See — It is the right of every man to worship or not to worship a Supreme Being, as his reason may direct; and no citizen shall be hurt, molested, or restrained in his person, liberty, or estate, for his religious profession or sentiments, or for the absence on his part of any religious profession or sentiment; provided, he does not disturb the public peace, infringe upon public mortality, or obstruct others in their religious worship"

Referred to Committee on Bill of Rights

Also, by Mr Rentfro, the following resolution

Resolved, That the following be and constitute a part of the State constitution:

"Sec. — The people of this State have the sole and exclusive right of governing themselves as a sovereign State, and do and forever hereafter shall exercise and enjoy every power, jurisdiction, and right, which is not, or may not hereafter be, by them, expressly delegated to the United States of America"

Referred to Committee on Bill of Rights

Mr Robertson, of Bell, offered the following resolution

Resolved, That the Committee on General Provisions be requested to insert in the constitution, under its appropriate caption the following provisions

"That the retailing of spirituous, vinous, or other intoxicating liquors may be prohibited in the vicinity of any school, or in any town in this State, by a vote of a majority of the people thereof, and the Legislature shall pass the necessary law to carry into effect this provision"

"That the right of appeal in both criminal and civil cases be provided for, from the lowest, through all the courts, to the highest"

"That the Legislature may tax incomes, and the occupations of retailing spirituous liquors, insurance, peddling, chiromancy and all other exhibitions commonly designated as shows and none other"

Referred to Committee on General Provisions

Mr Robertson, of Bell, also offered the following resolution

Resolved, That the Committee on General Provisions be requested to insert in the constitution, under its appropriate caption, the following provisions:

"That all freemen, when they form a social compact have equal rights, and no man or set of men is entitled to exclusive
separate public emoluments or privileges, but in consideration of public services

"No religious test shall ever be required as a qualification to any office or public trust in the State

"All men have a natural and indefeasible right to worship God according to the dictates of their own conscience, no man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent, no human authority ought in any case whatever to control or interfere with the rights of conscience in matters of religion, and no preference shall be given to any religious societies or modes of worship. But it shall be the duty of the Legislature to pass such laws as may be necessary to protect every religious denomination in the peaceable enjoyment of their own mode of worship.

"Every person shall be at liberty to speak, write or publish his opinions on any subject, being responsible for the abuse of that privilege, and no law shall ever be passed curtailing the liberty of speech or of the press

"No person shall be denied the right to hold office in the State on account of his profession, trade, business or calling, but all men shall be equal before the law"

Mr. Erhard offered the following resolution:

Resolved, That there shall be a General Superintendent of Schools, and the Governor and Secretary of State shall be ex officio members of said board

1. That whenever the State establishes a State University, he shall, with the consent and advice of the Senate, appoint seven Curators

2. The Legislature shall carefully guard over the University lands, inquire into it whether any are sold, if for cash, how the funds were deposited, if sold on credit, to enforce the payment forthwith, whenever payment is due

3. Until we have an University the Superintendent shall guard the interest of the University lands; and if any is sold the whole proceeds thereof shall be applied for the use and benefit of the University

4. If at any time there should be a surplus fund not needed by the University, then said money shall be invested either in United States bonds or bonds of the State of Texas

5. The foregoing section shall also apply to funds pertaining and belonging to the public school fund, or the public school fund may be loaned on real estate, to be first appraised by three disinterested persons where the property mortgaged lies, and shall be double the value of the amount loaned out
6 No public school fund or university fund or funds belonging to either shall in anywise be used for any sectarian institution.
7 That the scholastic year shall begin on the first Monday in October of each year.
8 That each teacher of a public school shall teach at least six hours a day, but the hours to begin or end shall be determined by the patrons of each school district.

Referred to Committee on General Provisions.

Mr. Flournov offered the following resolution:
Resolved, That whenever the wages or pay of a married man, for his labor, shall not amount to more than two dollars per day, and of a single man to more than one dollar per day, the same shall never be the subject of garnishment. And whenever garnishments shall, in any case, apply to wages or salary, the same shall relate only to the overplus of the above-named amounts.

Referred to Committee on General Provisions.

Mr. Reynolds offered the following resolution:
Resolved, That the following be ingrafted, under its proper caption, in the State constitution:
"Sec. —. That all elections in this State shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage."

Referred to Committee on Bill of Rights.

Mr. Reynolds also offered the following resolution:
Resolved, That the courts of justice shall be open to every person, and a certain remedy afforded for every injury to person, property or character, and that right and justice shall be administered without sale, denial or delay.

Referred to Committee on Bill of Rights.

On motion of Mr. Stockdale Mr. Stavton was added to the select committee on old Mexican Grants and Land Titles.

Mr. Ross moved to reconsider the vote taken yesterday by which the employment of a stenographic reporter was authorized.

Mr. Rentfro moved to lay the motion to reconsider on the table, whereupon the yeas and nays were called and resulted as follows:

Yeas—Messrs. Abernathy, Brown, Brady, Crawford, Cline, Dillard, DeMorse, Dohoney, Dunnam, Davis of Brazos, Erhard, Ford, Flournov, Ferris, Henry of Tyler, Johnson of Franklin, King, Kilgore, Killough, Lockett, McCabe, Morris, Mitchell, Moore, Murphy, Norvell, Nunn, Pauli, Reagan, Rugely, Reynolds,
Sept 15, 1875] CONSTITUTIONAL CONVENTION 121

Rentfro, Robertson of Bell, Stockdale, Whitehead, Wright, Whitfield, and West—38.


The question recurring upon Mr Ross’ motion to reconsider, Mr West moved a call of the house.

Absentees—Messrs Darnell, McLean, Weaver and Flanagan.

On motion of Mr Russell, of Harrison, Mr Flanagan was excused on account of sickness.

On motion of Mr Brown, the call was suspended

Mr Stockdale moved to adjourn until 9 o’clock to-morrow

The yeas and nays were called and stood—

Yea—Blake, Ballinger, Brady, Crawford, Cook of Gonzales, Cooke of San Saba, Cline, Cooley, Douglass, Dillard, DeMorse, Doboney, Davis of Brazos, Davis of Wharton, Erhard, Ford, Flournoy, Ferris, Henry of Tyler, Johnson of Franklin, King, Killough, Lockett, McCabe, Morris, Mitchell, Moore, Murphy, Norvell, Nunn, Pauli, Reagan, Reynolds, Rentfro, Robertson of Bell, Robeson of Fayette, Stockdale, Sansom, Wright, West, Waelder—41


So the Convention adjourned to 9 o’clock a. m. to-morrow, pending Mr. Ross’ motion to reconsider.
TENTH DAY.

HALL OF REPRESENTATIVES,  
AUSTIN, TEXAS, September 16, 1875. 

Convention met pursuant to adjournment; roll call; quorum present. Prayer by Rev. E. B. Wright, of Austin. Journals read, corrected and adopted.

Mr. West presented the petition of J. H. Hutchins and Alfred Grooms, relative to services rendered in the Land Office during the war.

Referred to Committee on Ordinances.

Mr. Nugent presented the memorial of T. R. Orenbaum, relative to doing away with fences in prairie counties, and school lands.

Referred to Committee on Counties and County Lands.

The following reports of committees were then read:

To the Hon. E. B. Pickett, President of the Convention.

The Committee on Legislative Department, having considered the resolution referred to it in relation to empanneling juries, ask to be allowed to report the same back, and recommend that it be referred to the Committee on Judicial Department.

Jno. L. Henry, Chairman.

To the Hon. E. B. Pickett, President of the Convention.

The Committee on Legislative Department, to whom was referred resolution in regard to giving aid by municipal corporations, beg leave to report the same back, and recommend that the same be referred to the Committee on Municipal Corporations.

Jno. L. Henry, Chairman.

To the Hon. E. B. Pickett, President of the Convention.

Your Committee on the Legislative Department, to whom was referred resolution relating to the appointment of special judges, having considered the same, instruct me to report it back and ask that it be referred to the Committee on Judicial Department.

Jno. L. Henry, Chairman.

To the Hon. E. B. Pickett, President of the Convention.

The Committee on the Legislative Department, to whom was referred resolution in relation to support of petit juries, have had the same under consideration, and ask leave to report it back.