Mr. Darnell moved to adjourn to 7½ o'clock p. m.
On motion of Mr. Rentfro, the Convention adjourned to 9 o'clock A. M. to-morrow.

SIXTY-FOURTH DAY.

HALL OF REPRESENTATIVES,
AUSTIN, TEXAS, NOVEMBER 19, 1875.

Convention met pursuant to adjournment, roll called; quorum present. Prayer by the Rev. J. S. Grasty, of the Presbyterian Church.

Journal of yesterday read and adopted.

Mr. Wright submitted the following report:

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

Sir—Your Committee on Private Corporations have considered the various matters referred to them, and have instructed me to submit the following article and recommend its adoption.

W. B. WRIGHT, Chairman.

"Section 1. No private corporation shall be created except by general laws.

"Sec. 2. General laws shall be enacted providing for the creation of private corporations, and shall therein provide fully for the adequate protection of the public and of the individual stockholders.

"Sec. 3. The right to authorize and regulate freight, tolls, wharfage or fares, levied and collected, or proposed to be levied and collected, by individuals, companies or corporations, for the use of highways, landings, wharves, bridges and ferries, devoted to public use, has never been, and shall never be relinquished or abandoned by the State, but shall always be under legislative control and depend upon legislative authority.

"Sec. 4. The first Legislature assembled after the adoption of this constitution shall provide a mode of procedure by the Attorney General and District or County Attorneys in the name and behalf of the State, to prevent and punish the demanding and receiving or collection of any and all charges as freight, wharfage, fares or tolls, for the use of property devoted to the public, unless the same shall have been specially authorized by law.
"Sec. 5. All laws granting the right to demand and collect freight, fares, tolls or wharfage shall at all times be subject to amendment, modification or repeal by the Legislature."

W. B. Wright, Chairman,
George Flournoy,
Geo. McCormick,
Robert Lacey,
W. W. Dillard,
Marion Martin,
W. L. Crawford,
J. F. Johnson.

Mr. Murphy reported as follows:

Committee Room,
Austin, November 18, 1875.

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

The undersigned members of the Committee on Private Corporations can not concur in the report made by the chairman, nor in the article recommended to be adopted, in so far as it assumes in the article, as a right on the part of the State to regulate "freights, charges," etc., of companies heretofore chartered, for the reasons following:

1. The charters heretofore granted are executed contracts, and article 1, section 10, of the Constitution of the United States prohibits any State from passing any law impairing the obligation of contracts.

2. Because the effect of the article as to existing charters would be to deprive the incorporators without due process of law of their property, which is prohibited by article 14 of the Constitution of the United States.

3. Because the State has no right to regulate the charges of incorporated companies unless reserved in the charters.

J. B. Murphy,
T. L. Nugent,
B. Blake.

One hundred copies of the reports and articles ordered printed.

Special order taken up, viz., "Ordinance for relief of the Texas and Pacific Railroad," with report of a select committee, recommending amendments, and a minority report of the committee.

Mr. German moved to postpone the consideration of the ordinance until the action on the articles on "Taxation and Revenue," "Judicial Department," and "General Provisions."

Lost.
Mr. Dohoney offered the following amendments to the committee's amendments:

In line 2 strike out the words "interfered with" and insert the word "affect."

In line 5, after the word "town" insert the words "or city."

Adopted.

The amendments of committee adopted.

Mr. Nugent offered the following amendment:

"And provided, further, that any reservation of public domain heretofore made for said railway shall be opened to actual settlement under the pre-emption laws of the State."

The yeas and nays being demanded, the amendment was adopted by the following vote:


**Nay**—Blake, Burleson, Cline, Cooke of San Saba, Darnell, Davis of Brazos, Dohoney, Erhard, Ferris, Flanagan, Ford, Henry of Limestone, Holt, King, Lockett, Lynch, McCabe, Martin of Navarro, Martin of Hunt, Mills, Murphy, Rentfro, Russell of Harrison, Sansom, Spikes, Stockdale, Wade, Weaver, Whitfield, Wright—30.

Mr. Nugent moved to reconsider the vote just taken, and to lay the motion on the table.

A call of the Convention was demanded.

Absentees—Messrs. Brady, Morris, McLean and West.

On motion of Mr. Dillard, Mr. McLean was excused.

Mr. Brady appeared and answered to his name.

Mr. McCormick moved to suspend the call.

Lost.

The hour having arrived for the special order, viz: Mr. Reagan's separate section relative to public highways, it was taken up.

Mr. Reagan offered the following amendment to the section:

Amend the section by inserting between the words "State" and "shall," in line 1, the following: "embracing those which form common boundaries between this State and other States or territories, and between this State and Mexico."

Mr. West appeared and answered to his name.
On motion of Mr. Reagan, the call was suspended.

Mr. Nugent’s motion to reconsider and lay on the table was then put and lost by the following vote:


On motion of Mr. Wright, the question under consideration, viz: Mr. Reagan’s section on public highways over the waters of the State, was postponed and consolidated with the article on private corporations.

The Convention then proceeded with the consideration of the ordinance for the relief of the Texas Pacific Railroad, the question to reconsider the vote adopting Mr. Nugent’s amendment being the pending question.

[Mr. Brown in the chair.]

Mr. Dillard moved the previous question. Carried.

The vote was then reconsidered by the following vote:


Mr. Nugent’s amendment was then lost by the following vote:

Nor. Stuckey offered the following amendment:

"Axu Wmas, said financial panic has had the same paralyzing effect on all other railway constructions in this State; therefore,

"Be it further ordained, that all railway companies in this State are hereby granted twelve months time, from the adoption of the constitution framed by this Convention, to comply with the requirements of their charters; and the time for the construction of any part and for the completion of the whole of the work to be done by any railway company as required by the charters thereof."

Mr. Ballinger offered the following amendment:

"Provided, that the express condition of this ordinance, and of all rights under the same, is, and it is hereby enacted and declared, that any railroad now or hereafter chartered by the State of Texas, whose line connects with or crosses the line of said Texas and Pacific Railway, may connect with the same, and shall have and receive all facilities for such connection in transportation and business, and for the receipt and transfer of cars and freight from one to the other, without breaking bulk, which can be afforded to connecting railways, and that the cars, passenger and freight, received from said connecting railroads, or carried over said Texas and Pacific Railway, or any part thereof, destined to any point on the gulf coast, or any of said connecting railroads, shall be transported and carried by said Texas and Pacific Railway Company at the same pro rata rates of freight and passage per mile, and at no higher rates than the through rates of freight and passage charged by said Texas and Pacific Railway Company to the extreme points of its own and all connecting railroads to their termini on the Atlantic or Pacific; the express intent and effect hereof being, that cars, passengers and freights to and from the gulf coast and other points on any of such connecting Texas railroads shall always be carried by said Texas and Pacific Railway Company, and bargained for by it, with all its other connecting roads and through lines, at the most favored rates of the through freight and passage on said railroad and its connections, and this right may always be en-
forced by any of said connecting railroad companies, and by any
all persons interested in freight or passage thereon and no Leg-
islature shall hereafter grant any relief to said Texas and Pacific
Railway Company which does not recognize and secure the
rights and privileges herein provided."

Mr. Nugent offered the following amendment to Mr. Stock-
dale's amendment:

"It is hereby further ordained that said companies shall file
in the office of the Secretary of State a full and complete accep-
tance of all the provisions of this constitution, applicable to rail-
roads, before the relief herein provided for shall take effect."

Adopted by the following vote:

Yeas—Allison, Arnim, Barnett, Blake, Blassingame, Burle-
son, Cooke of San Saba, Crawford, DeMorse, Dillard, Douglas,
Fleming, Flournoy, German, Graves, Haynes, Henry of Lime-
stone, Holt, Johnson of Collin, Johnson of Franklin, Lacy,
McCormick, McKinney of Walker, Martin of Hunt, Moore,
Nugent, Nunn, Pauli, Ramey, Reagan, Rentfro, Robertson of
Bell, Robison of Fayette, Ross, Sessions, Spikes, Stewart,
Wade, Whitehead—38.

Nays—Ballinger, Brady, Brown, Cline, Darnell, Davis of
Brazos, Dohoney, Erhard, Ferris, Flanagan, Kilgore, King,
Lockett, McCabe, Martin of Navarro, Mills, Mitchell, Murphy,
Russell of Harrison, Sansom, Smith, Stockdale, Weaver, Whit-
field, Wright—25.

Mr. Flanagan moved to lay the whole subject matter on the
table.

Lost by the following vote:

Yeas—Allison, Arnim, Barnett, Blassingame, Brady, Bruce,
Crawford, Davis of Brazos, DeMorse, Dillard, Flanagan, Flem-
ing, Flournoy, German, Graves, Haynes, Henry of Smith, John-
son of Collin, Kilgore, Lacy, McCabe, McCormick, McKinney of
Walker, Moore, Nugent, Pauli, Robertson of Bell, Robison of
Fayette, Ross, Smith, Stewart, Stockdale, Whitehead, Wir-
tfield—34.

Nays—Abernathy, Ballinger, Blake, Brown, Burleson, Cline,
Chambers, Cooke of San Saba, Darnell, Dohoney, Douglas,
Erhard, Ferris, Ford, Henry of Limestone, Holt, Johnson of
Franklin, Killough, King, Lockett, Martin of Navarro, Martin of
Hunt, Mills, Mitchell, Murphy, Nunn, Ramey, Reagan, Rentfro,
Sansom, Sessions, Spikes, Wade, Weaver, West, Whitfield—36.

On motion of Mr. King, the Convention adjourned to 2½
o'clock p. m.
EVENING SESSION—2½ o'clock.

Constitutional Convention. 721

Convention met pursuant to adjournment; roll called; quorum present.

Pending question resumed, viz: Mr. Stockdale's amendment as amended.

Mr. Abernathy moved to reconsider the vote refusing to table the whole subject taken up this forenoon.

Carried by the following vote:


NAYS—Blake, Cline, Cooke of San Saba, Darnell, Davis of Brazos, Dohoney, Douglas, Henry of Limestone, Johnson of Franklin, Kilgore, Killough, King, Lockett, Martin of Hunt, Mills, Mitchell, Russell of Harrison, Sansom, Sessions, Spikes, Wade, Weaver, Whitfield—23.

The question recurring on tabling the whole subject, on motion of Mr. Darnell a call of the Convention was demanded.


The pending question went to the table temporarily.

Messrs. Ford, Wright, Moore, Henry of Smith, and Holt appeared and answered to their names.

"Article—Taxation and Revenue," taken up and read third time.

Mr. Murphy offered the following amendment:

Section 11, line 82, strike out the words "by a two-thirds vote," and the word "vote" in line 83.

[Mr. Brown appeared, and was announced by the doorkeeper.] The amendment was lost by the following vote:

YEAS—Abernathy, Allison, Ballinger, Blake, Burleson, Cline, Cook of Gonzales, Darnell, Davis of Brazos, DeMorse, Dohoney, Ferris, Flournoy, Henry of Limestone, Henry of Smith, Kilgore, Killough, King, Lockett, McCormick, Martin of Navarro, Moore, Murphy, Ramey, Reagan, Robertson of Bell, Robison of Fayette, Russell of Harrison, Sessions, Smith, Stewart, Stockdale, West, Whitehead, Whitfield, Wright—36.

NAYS—Arnim, Barnett, Blassingame, Brown, Bruce, Cooke of San Saba, Crawford, Dillard, Flanagan, Fleming, German, Graves, Haynes, Holt, Johnson of Collin, Johnson of Franklin,
Mr. Pauli offered the following amendment as a substitute for section 18:

"Sec. 18. The County Commissioners' Court shall act as a Board of Equalization in each county to determine the just value of the property rendered for taxation."

Mr. Ballinger proposed to substitute the amendment by the following:

Add to the end of the section the words: "and the County Commissioners shall constitute said board."

Adopted.

Mr. Fleming offered to amend section 13, line 98, by inserting after the word "lands" the words "and other property;" and in line 100, after the word "lands," insert "and other property."

Adopted.

Mr. Brown offered the following amendment:

Amend section 16 by striking out all after the word "therefor," in line 119, and inserting: "but in counties having ten thousand inhabitants, to be determined by the last preceding census of the United States, a collector of taxes shall be elected, to hold office for two years and until his successor shall have been elected and qualified."

Adopted.

Mr. Cline proposed to amend section 13, lines 97 and 98, by inserting after the word "sale" the words "a sufficient portion."

Adopted.

Mr. Nugent offered the following amendment:

Add to section 15: "Provided, that the homestead exempt from forced sale shall only be liable for the taxes due thereon."

Messrs. Russell, of Wood, and Erhard appeared and answered to their names.

Mr. Nugent's amendment lost by the following vote:


Nays—Blake, Cline, Cooke of Son Saba, Douglas, Flanagan, Fleming, German, Graves, Henry of Limestone, Henry of Smith,

Mr. Crawford offered the following amendment:
Section 9, line 69, strike out all after the word “levy” down to “except,” and insert “an annual tax of not more than one-half of one per cent.”

On motion of Mr. Nugent, the main question on the final passage of the article was ordered.

Mr. Crawford’s amendment lost by the following vote:


Mr. King offered the following amendment:
Amend section 10 by adding: “provided, that the Legislature may authorize counties with a population of less than two thousand inhabitants to use the State tax to build jails and court houses in said counties.”

Lost.

Mr. Dillard offered the following amendment:
Section 16, line 120, strike out “ten thousand” and insert “eight thousand.”

Lost.

The article passed by the following vote:

Nays—Ballinger, Blake, Cline, Crawford, Darnell, Davis of
Brazos, DeMorse, Erhard, Flanagan, Ford, Henry of Limestone, Henry of Smith, Kilgore, Killough, King, Lacy, Lockett, McCabe, Martin of Navarro, Mills, Moore, Nunn, Pauli, Reagan, Rentfro, Robertson of Bell, Russell of Harrison, Sansom, Smith, Stewart, Stockdale, West, Wright—32.

Mr. Brady was paired off with Mr. Gaither, but for which he would vote "nay."

Mr. Martin, of Hunt, was paired off with Mr. Norvell, but for which he would vote "yea."

On motion of Mr. Flournoy, Mr. Russell, of Wood, was granted unlimited leave of absence.

Mr. Fleming moved to reconsider the vote just taken, and to lay the motion on the table.

Lost by the following vote:


Nays—Ballinger, Barnett, Blake, Brady, Brown, Chambers, Cline, Cook of Gonzales, Crawford, Darnell, Davis of Brazos, DeMorse, Erhard, Flanagan, Henry of Smith, Kilgore, Killough, King, Lockett, McCabe, McCormick, Martin of Navarro, Mitchell Moore, Nunn, Pauli, Ramey, Reagan, Rentfro, Robertson of Bell, Rose, Russell of Harrison, Sansom, Sessions, Smith, Stewart, Stockdale, Weaver, West, Whitehead, Wright—41.

The question then recurring on the motion to reconsider, the same was put and carried by the following vote:


Mr. Crawford offered the following amendment:
Sec. 9, line 68, strike out the words “city or town.”
Mr. Murphy moved to lay the amendment on the table.
Lost by the following vote:


The Convention being full by appearance of absentees, the call was exhausted, and the Convention again resumed the question on which the call was ordered, viz: the motion to lay on the table the ordinance for the relief of the Texas Pacific Railroad, and all pending amendments.

Yeas and nays called, and motion to table carried by the following vote:


**Nays**—Brown, Burleson, Cline, Cook of Gonzales, Cooke of San Saba, Darnell, Davis of Brazos, Dohoney, Douglas, Ferris, Henry of Limestone, Holt, Johnson of Franklin, Killough, King, Lockett, Mills, Murphy, Nunn, Reagan, Russell of Harrison, Sansom, Spikes, Wade, West, Whitehead, Whitfield, Wright—28.

Constitutional Convention again resumed consideration of taxation and revenue, Mr. Crawford's amendment pending.

Mr. Dohoney offered the following as a substitute for the amendment:

Amend section 9, line 69, by striking out the words “one-half of.”
Mr. Stewart offered the following amendment:
Strike out all after the word "valuation," in line 68.
[Mr. Stockdale in the chair.]
Mr. Allison moved the previous question on the passage of
the article.
Carried.
Mr. Stewart's amendment lost.
Mr. Dohoney withdrew his amendment.
Mr. Crawford's amendment lost by the following vote:
YEAS—Allison, Ballinger, Barnett, Blake, Brady, Brown,
Bruce, Burleson, Cline, Cook of Gonzales, Cooke of San Saba,
Crawford, Davis of Brazos, DeMorse, Dillard, Erhard, Ferris,
Flanagan, Fleming, Ford, Graves, Johnson of Collin, Killough,
King, Lacy, Lockett, McKinney of Walker, Martin of Navarro,
Martin of Hunt, Moore, Nugent, Nunn, Pauli, Ramey, Reagan,
Ross, Russell of Wood, Sansom, Sessions, Smith, Stewart,
Wade, Whitehead—43.
NAYS—Abernathy, Arnim, Blassingame, Chambers, Dohoney,
Douglas, German, Haynes, Henry of Limestone, Henry of
Smith, Holt, Kilgore, McCormick, McKinney of Denton, Mills,
Murphy, Rentfro, Robertson of Bell, Robison of Fayette, Scott,
Spikes, Stockdale, Whitfield, Wright—24.
The article was then finally passed by the following vote:
YEAS—Abernathy, Allison, Arnim, Barnett, Blassingame,
Brown, Bruce, Burleson, Chambers, Cook of Gonzales, Cooke of
San Saba, Crawford, Dillard, Dohoney, Douglas, Ferris, Fleming,
Flournoy, German, Graves, Haynes, Holt, Johnson of Collin,
Johnson of Franklin, Lacy, McCormick, McKinney of Denton,
McKinney of Walker, Martin of Navarro, Murphy, Nugent,
Ramey, Robison of Fayette, Ross, Russell of Wood, Scott, Sessions,
NAYS—Ballinger, Blake, Cline, Darnell, Davis of Brazos,
DeMorse, Erhard, Flanagan, Henry of Limestone, Henry of
Smith, Kilgore, Killough, King, Lockett, McCabe, Mitchell,
Moore, Nunn, Pauli, Reagan, Rentfro, Robertson of Bell, Sansom,
Smith, Stewart, Stockdale, West, Wright—28.
Mr. Brady was paired off with Mr. Gaither, but for which he
would vote "nay."
Mr. Martin, of Hunt, was paired off with Mr. Norvell, but
for which he would vote "yea."
Resolution in relation to night sessions taken up and post-
poned until to-morrow.
"Article —, Legislative Apportionment," taken up and read
third time.
Mr. Kilgore offered the following amendment:

"—— District—The county of Smith shall elect one representative.

"—— District—The counties of Smith and Gregg shall elect one representative; Smith to be the returning county.

"—— District—The counties of Camp and Upshur shall elect one representative; Upshur to be the returning county."

Adopted.

Mr. Moore offered the following amendment as a substitute for lines 138 and 139, "Burleson county shall elect one representative."

Mr. Graves moved the main question.

Mr. Dillard moved to adjourn to 7 1/2 o'clock to-night.

Mr. Brady moved to adjourn to 9 o'clock A. M. to-morrow.

Carried.

SIXTY-FIFTH DAY.

HALL OF REPRESENTATIVES,

AUSTIN, TEXAS, NOVEMBER 20, 1875.

Convention met pursuant to adjournment; roll called; quorum present. Prayer by the Rev. J. S. Grasty, of the Presbyterian Church, at Austin.

Journal of yesterday read and adopted.

Mr. McCormick reported as follows:

COMMITTEE ROOM,

AUSTIN, NOVEMBER 19, 1875.

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

The majority of the Committee on Judicial Appointment instruct me to report the accompanying ordinance, dividing the State into Judicial Districts, and recommend its adoption.

GEO. McCORMICK, Chairman.

"AN ORDINANCE

"TO DIVIDE THE STATE OF TEXAS INTO JUDICIAL DISTRICTS.

"Be it ordained by the people of the State of Texas in Convention assembled, That until otherwise provided by law, the State of Texas shall be divided into twenty-five judicial districts, as follows, to-wit:

"Section 1. The First District shall be composed of the counties of Jefferson, Chambers, Liberty, Hardin, Polk, Tyler, Jasper, Newton, Orange and San Jacinto.