visions, reported back to the Convention, sundry resolutions which had been referred to said committee, and recommended the same to be laid on the table.

Which report was adopted.

On motion of Mr. Caldwell, the Convention adjourned until half past 8 o'clock, to-morrow morning.

TUESDAY MORNING, July 29, 1845.

The Convention met pursuant to adjournment—prayer by the Chaplain.

Present—Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brashear, Brown, Burroughs, Caldwell, Cazneau, Clark, Cunningham, Darnell, Davis, Evans, Everts, Forbes, Gage, Hemphill, Henderson, Hicks, Hogg, Horton, Howard, Holland, Hunter, Irion, Jewett, Jones, Kinney, Latimer of L., Latimer of R. R., Lewis, Love, Lumpkin, Lusk, Lipscomb, Mayfield, McGowan, McNeill, Miller, Moore, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Tarrant, Van Zandt, White, Wright and Young.

Mr. Wood was excused from attendance on the Convention in consequence of indisposition.

The journal of the preceding day was read and adopted.

Mr. Runnels offered the following resolution:

Resolved, That the committee on the General Provisions of the Constitution be instructed to enquire into the expediency and propriety of incorporating in the Constitution the following provisions:

SLAVES.

1st. The Legislature shall have no power to pass laws for the emancipation of slaves without the consent of their owners, or without paying their owners previous to such emancipation a full equivalent in money for the slaves so emancipated. They shall have no power to prevent emigrants to this State, from bringing with them such persons as are deemed slaves by the laws of any one of the United States, so long as any person of the same age and description shall be continued in slavery by the laws of this State. Provided, that such person or slave be the *bona fide* property of such emigrants; and provided also, that laws may be passed to prohibit the introduction into this State, of slaves who

have committed high crimes in other States or territories. They shall have full power to oblige the owners of slaves to treat them with humanity, to provide for them necessary food and clothing, to abstain from all cruelties to them, and in case of their neglect or refusal to comply with the requisitions of such laws, to provide by law for the sale of such slave or slaves for the benefit of the owner or owners.

2d. In the prosecution of slaves for crimes of a higher order than *petit larceny*, the Legislature shall have no power to deprive them of an impartial trial by a petit jury.

3d. Any person who shall maliciously dismember or deprive a slave of life, shall suffer such punishment as would be inflicted in case the like offence had been committed on a free white person; and on the like proof, except in case of insurrection of such slave.

On motion of Mr. Van Zandt, the rule requiring the resolution to lay on the table one day for consideration, was suspended, and the resolution adopted.

Mr. Horton offered the following resolution:

Resolved, That this Convention, in behalf of the people of Texas, tender to the Hon. Robert J. Walker their profound consideration and gratitude for the great and untiring services he has rendered them as one of their earliest, best, and most efficient friends, in procuring the recognition of their independence, and consummating the great and glorious work of annexation.

On motion of Mr. Van Zandt, the rule requiring the resolution to lie on the table one day for consideration, was suspended, and the resolution unanimously adopted.

On motion of Mr. Horton, the President and Secretary of the Convention, were requested to sign the resolution, and forward the same to the Hon. Robert J. Walker.

On motion of Mr. Parker, the Convention took up the

ORDERS OF THE DAY.

The amendments of the Committee of the Whole, to the report of the standing committee on the Judiciary Department, being first in order, were taken up.

The amendment of the committee to the 3d section, is as follows:

After the word "state" in second line, insert "in all civil cases, and in all criminal cases, it shall be competent for any one of the Judges of the Supreme Court to grant a supersedeas, and grant a writ of error, returnable to the said Supreme Court, if in the

opinion of the Judge to whom application has been made, error in law has intervened."

Mr. Baylor offered the following as a substitute to the amendment of the committee:

After the word "state" in second line, insert "but in criminal cases, with such exceptions and under such regulations, as the Legislature shall make."

Which was adopted in lieu of the amendment of the committee.

In the same section, third line, after the word "issue," insert the following: "the writ of Habeas Corpus, and under such regulations as may be prescribed by law, may issue."

Which amendment of the committee was adopted.

The amendment of the committee to the 8th section, to strike out all in brackets, which is "and each district shall not contain more than seven counties," was adopted by the Convention.

The amendment of the committee to the 9th section, fourth line, is as follows: insert after the word "be" the words "increased or."

Mr. Lewis offered as a substitute the following: strike out after the word "during," in last line of 9th section, and insert "the term for which they shall have been elected:"

Which was rejected.

The question was then taken on the amendment of the committee, which was also rejected.

The ayes and noes stood as follows:

Ayes—Messrs. Armstrong of J., Brashear, Burroughs, Bagby, Darnell, Davis, Gage, Hicks, Holland, Irion, Jones, Latimer of R. R., Latimer of L., Lewis, Lumpkin, McGowan, McNeill, Moore, Parker, Power, Rains, Scott, Smyth and White—24.

Noes—Messrs. President Rusk, Anderson, Armstrong of R., Baylor, Bache, Brown, Caldwell, Cazneau, Clark, Cunningham, Evans, Everts, Forbes, Henderson, Hogg, Horton, Howard, Hunter, Jewett, Kinney, Love, Lusk, Lipscomb, Mayfield, Miller, Runnels, Standefer, Tarrant, Van Zandt, Wright and Young—31.

The amendment of the committee to the 9th section, to fill the first blank with $1,500, was taken up.

Mr. Howard moved to strike out $1,500 and insert $2,000, for the Judges of the Supreme Court.

A division of the question was called for on striking out $1,500, and carried.

Mr. Mayfield moved to fill the blank with $2,500.

On motion of Mr. Anderson, a call of the Convention was made; and,

On motion of Mr. Jewett, a further call was suspended.

The ayes and noes were then called for on filling the blank with $2,500, which were as follows:

Ayes—Messrs. Darnell, Forbes, Kinney, Mayfield and Tarrant—5.

Noes—Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., Bagby, Baylor, Bache, Brashear, Brown, Burroughs, Caldwell, Clark, Cunningham, Davis, Evans, Everts, Gage, Hicks, Hogg, Horton, Howard, Hunter, Holland, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Love, Lumpkin, Lusk, Lipscomb, McGowan, McNeill, Miller, Moore, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Van Zandt, White, Wright and Young—48.

So the motion was lost.

The question was then taken on Mr. Howard's motion to fill the blank with $2,000.

Upon which the ayes and noes were called, and stood as follows:

Ayes—Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., Bache, Brown, Caldwell, Cazneau, Clark, Cunningham, Darnell, Davis, Everts, Forbes, Gage, Henderson, Horton, Howard, Holland, Hunter, Jewett, Kinney, Love, Lusk, Lipscomb, Mayfield, McGowan, McNeill, Miller, Moore, Power, Runnels, Smyth, Tarrant, Van Zandt, White, Wright and Young—38.

Noes—Messrs. Brashear, Burroughs, Bagby, Evans, Hicks, Hogg, Irion, Jones, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Parker, Rains, Scott and Standefer—16.

So the motion was carried, and the blank filled with $2,000.

In the second blank of the 9th section, Mr. Van Zandt moved to strike out $1500 (the amendment of the committee,) as salary for District Judges.

Upon which the ayes and noes were called, and stood as follows:

Ayes—Messrs. President Rusk, Armstrong of R., Brown, Caldwell, Cazneau, Clark, Cunningham, Darnell, Evans, Forbes, Henderson, Howard, Holland, Jewett, Lusk, Mayfield, McGowan, McNeill, Moore, Tarrant, Van Zandt and Young—22.

Noes—Messrs. Anderson, Armstrong of J., Bagby, Bache, Brashear, Burroughs, Davis, Everts, Gage, Hicks, Hogg, Hunter, Irion, Jones, Latimer of L., Latimer of R. R., Lewis, Lumpkin,

Miller, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, White and Wright—28.

So the motion was lost.

Mr. Lusk moved to reconsider the vote rejecting the amendment prohibiting the salaries of the Judges from being increased during their term of service.

Which motion was laid on the table.

Mr. Darnell moved to reconsider the vote fixing the salary of Judges of the District Courts at $1,500.

Which, on motion of Mr. Gage, was laid on the table.

On motion of Mr. Rusk, the report of the committee on the Judiciary Department was laid on the table for the present; and,

On motion of Mr. Cazneau, the Convention proceeded to the special order of the day for 12 o'clock, which was the election of Public Printer.

Messrs. Miller, Tarrant and Wright, were appointed tellers.

No additional nominations were made, Messrs. Fields, and Miner & Cruger, having been previously nominated.

Mr. Gage moved that the Convention elect a Printer to print the Journals alone. Lost.

The Convention then proceeded to ballot, and upon counting the votes, it was found that

Messrs. Miner & Cruger received 37 votes.
Mr. S. S. B. Fields " 17 "

Messrs. Miner & Cruger having received a majority of all the votes, were declared duly elected Public Printers for the Convention.

On motion of Mr. Bache, the Convention adjourned until 4 o'clock, P. M.

4 O'CLOCK, P. M.

The Convention met pursuant to adjournment—roll called—quorum present.

Mr. Hemphill, chairman of the committee on the Judiciary, to whom was referred the subject of "how far the title to lands owned by the citizens of Texas, would be affected by an adjudication in the federal courts of the United States, made the following report:

The committee on the Judiciary, who were instructed to take into consideration, how far the title to lands, owned by the citizens of Texas, would be affected by an adjudication of their rights in the federal courts of the United States, beg leave, respectfully, to submit the following

REPORT.

By the terms of the resolution, the committee are restricted to an inquiry into the effect on the titles to real property, by an adjudication of the rights of claimants, in the federal courts of the United States.

Without reference, therefore, to the other legitimate objects for the exercise of the judicial power of the United States, let us proceed to examine the jurisdiction of the courts of the Union, in the decision of controversies involving the titles to real property within the limits of the future State of Texas. Among other classes of cases, the federal judiciary is authorized, by the Constitution, to take cognizance of all those arising between the citizens of different States, and between citizens and aliens, or foreigners.

By the judiciary act, approved September 24th, 1789, the circuit courts of the United States are empowered to take original cognizance, concurrent with the courts of the several States, of all suits of a civil nature at common law, or in equity, where the matter in dispute exceeds five hundred dollars, and the United States are plaintiffs or petitioners, and an alien is a party; or the suit is between a citizen of the State where the suit is brought, and the citizen of another State.

As suits between aliens and citizens of other States, and the citizens of Texas, will involve all the controversies in relation to lands, which can arise on the rights of parties as now, by law established, and which are within the reach of the federal jurisdiction, we will not enquire into the rules which would control the action of the courts of the United States, on cases which may hereafter arise between the citizens of the State of Texas, should acts of subsequent state legislation infringe on the obligation of contracts, or violate rights secured by the provisions of the Constitution of the United States: such cases can only originate in future legislation.

Were there any conflicting grants of lands from different States to be found within our limits, they would furnish occasion for the interposition of the federal judiciary to settle, between our own citizens, whatever controversies might arise from this source. It is believed that no such cases exist; and they, therefore, require no special notice.

In referring to the cognizance of the rights of aliens to lands, by the federal courts, the committee intend to embrace only the cases of aliens holding lands by titles emanating directly from the Government, or where aliens are, by law, allowed a reasona-

ble time to take possession and dispose of lands accruing to them by inheritance.

Whether aliens, who have purchased lands from individuals in this Republic, can, in our own courts, maintain or defend suits for the adjudication of their claims; whether their titles are good against individuals, and can only be divested by a judicial proceeding, in the nature of an inquest of office; whether the defects in an alien's title are cured by naturalization; or whether his citizenship is prospective in its operation upon his rights to real property, are questions which we propose not to discuss.—They are not properly within the scope of the inquiry to which the attention of the committee has been directed.

Some of the most important of these questions are already before the judicial tribunals of the country for decision. They involve immense interests; and any opinions offered by the committee, would not only be inexpedient, but could have no influence on the action of any court before which such disputes are pending, or may be brought for judicial determination: we will only say, that some of the most enlightened tribunals have decided, that the rights of citizenship are altogether prospective; and that an alien's title to lands, purchased before his naturalization, acquire no increased validity, nor are their defects remedied by his subsequent citizenship.

But the principal source of power to the judiciary of the Union, to determine on rights to real property, springs from controversies between the citizens of one State and those of another State, a correct understanding of what parties in this class of cases, are necessary to vest jurisdiction in the federal courts; and of the rules, principles, and laws, by which their decisions will be governed, will, the committee trusts, be sufficient to answer all the purposes of the inquiry directed by your honorable body.

The citizenship necessary to give cognizance to the federal courts, consists of a residence or domicil in a particular State, by a citizen of the United States. It may be changed by a removal, in good faith, and with an intent to fix a residence permanently in another State.

Should the removal be for a temporary purpose, with intention of returning after its accomplishment, the person is still considered a resident of the State whence he departed.

The title in the plaintiff, who is a citizen of a different State, must be obtained in good faith; for if the conveyance which has been made by a citizen of the State where the suit is brought, be merely colorable and collusive, it will not give the court jurisdiction.

Executors, administrators, and trustees, who are citizens of different States, may maintain suits in the federal courts, though their testators, intestates, or *cestui que* trusts, were, or may be, citizens of the same State with the defendants.

When jurisdiction has once vested, a change of domicil during the pendency of the suit, does not divest the jurisdiction. [See Morgan's heirs *v.* Morgan et al, 2, Wheaton's Rep., 290, and vol. 4th, cond. Rep. 121, and cases referred to.] But the more important object of our inquiry is, to ascertain by what laws and rules the decisions of the federal judiciary will be controlled.

In the 34th section of the "Act to establish the Judicial Courts of the United States," before referred to, it is provided "that the laws of the several States, except where the Constitution, treaties, or statutes of the United States, shall otherwise require or provide, shall be regarded as rules of decision, in trials at common law, in the courts of the United States, in cases where they apply."

This provision is but a legislative recognition of the principles of universal jurisprudence, as to the operation of the *Lex Loci*, in the trial and decision of causes. The true principles of the local law must govern, and not those derived from the jurisprudence of other States, or foreign countries. This rule is particularly applicable to disputes involving real property. The judicial tribunals of all countries (more especially where the common law prevails) recognize, to its fullest extent, the principle—that real estate is subject to the laws of the Government within whose territory it is situated.

Should, then, a controversy arise between a citizen of this country and a citizen of another State, who, subsequent to our incorporation into the American Union, might acquire a claim to lands within this State, either by inheritance, devise, or purchase; and should suit be prosecuted for the same, in the federal courts, the rights of the parties would be decided by the same laws and rules by which they would be determined in the courts of the State.

Whether the laws, customs and usages of Spain, the decrees of Mexico, or those of Coahuila and Texas, or the laws of the Republic of Texas, or all together, affected the rights in controversy—to each and all of these laws, would the courts of the Union give their just force and effect; and by no other laws nor principles deduced from other systems of jurisprudence, would the questions at issue be determined.

Neither the Constitution, treaties, nor laws, of the United States, can change, alter, or modify the rights of individuals to

real property, as established by the existing laws of the Republic. Both the federal and the state courts will be restricted in their decisions on those rights, to the provisions of the laws under which those rights originated, or by which they have been affected. And should rights have arisen under that portion of our Constitution and laws which, as being repugnant to the Constitution and laws of the United States, will become null and void; yet the rights thus created, will remain undisturbed.

The Government of the United States is one of limited authority. All powers not expressly granted, are retained to the States, or to the people. All laws enacted by the States, not inconsistent with the Constitution of the United States, are valid and obligatory, not only upon the citizens of the State, but upon others who may claim rights or redress for injuries under those laws. The establishment of the federal courts, and the jurisdiction granted them in specified cases, could not, consistently with the spirit and provisions of the Constitution, impair the obligation imposed by the laws of the State, by setting up in those courts a rule of decision at variance with that binding on the citizens. In accordance, then, with these well established constitutional principles, the laws now affecting contracts, regulating the disposition and transmission of property, &c., will not only be valid, but all made subsequent to our admission into the Union, not conflicting with the Constitution of the United States, will be equally obligatory. By the rules there prescribed, will our civil conduct be tested, and our rights determined, before whatever tribunals they may be adjudicated. But the courts of the Union will not only decide questions depending on local laws in conformity with those laws, but in such cases, (and more especially where titles to lands are involved,) the construction put by the state courts, on those laws, where that is settled and ascertained, will be adopted by the courts of the United States. And whether the decision of the courts of the State be grounded upon the construction of the statutes of the State, or form a part of the unwritten law of a State, which has become a rule of property, they will be regarded, by the federal courts, as of equal obligation. In the case of Polk's lessee *v.* Wendell, 5 Wheaton's Rep., 293, the Supreme Court held the following language: "The sole object for which jurisdiction of cases between citizens of different States is vested in the courts of the United States, is to secure to all the administration of justice, upon the same principles under which it is administered between the citizens of the same State—hence the court has never hesitated to conform to the settled doctrines of the States, on landed property, where they are fixed, and

can be satisfactorily ascertained; nor would it be ever led to deviate from them, in any case that bore the resemblance of impartial justice." [Vide Brown *v.* Van Braam, 3, Dallas' Rep. 344, and 1 Cond. Rep. 157, and cases cited.] Nor need apprehension be entertained, that the federal courts will disregard the provisions of the statute of limitations. This class of laws has always been regarded with favor by the federal courts. None have been considered as more universally sanctioned by the practice of nations, and the consent of mankind, than those which give peace and confidence to the actual tiller of the soil. All the reasonable purposes of justice are regarded as subserved, if the courts of a State have been left open to the prosecution of suits, for such a time as may raise a presumption in the occupier of the soil, that the fruits of his labor are effectually secured to him, beyond the chances of litigation. That prescription is a thing of policy, growing out of the experience of its necessity; and the time after which suits or actions shall be barred, has been, from a remote antiquity, fixed by every nation, in virtue of that sovereignty from which its legislation, for all persons and property within its jurisdiction, derives its authority. Where a question arose on the validity of the statute of a State, prescribing a shorter period for bringing suit on the judgment of a foreign tribunal, than on one obtained in the court of the State, it was held that such a provision was not repugnant to the Constitution of the United States: that there was no clause in that instrument, from which it could be plausibly inferred that the States might not legislate upon the remedy, in suits upon the judgments of other States. [Bell *v.* Morrison, 1 Peters 360; Melluny *v.* Silliman, 3 Peters 276; McElnoyle *v.* Cohen, 13 Peters 312.]

All controversies which may arise between citizens of this State, and aliens authorized to sue, will be determined by the same rules and laws which will guide the courts in the decision of causes between the citizens of different States.

Your committee have confined themselves to deductions drawn entirely from the Constitution, laws and judicial decisions of the United States. These afford the most solid grounds of assurance, that the rights of individuals to property, will be guarded with the most jealous vigilance by the courts of the United States; and determined on the same principles of law which constitute the rules of decision in the tribunals of the State. The establishment of the federal courts within the limits of the State, and their cognizance of disputed claims to lands, will not injuriously affect the titles of citizens of this Republic. It will simply furnish a citizen of another State, or an alien, a selection be-

tween two *forums* for the adjudication of his rights, both of which courts will be controlled by the laws of the State upon which those rights are founded, or by which they are controlled.

The beneficent operation of the judicial power of the Union, in this class of cases, is the best proof of the enlightened wisdom of the framers of the Constitution, in clothing the federal courts with this high jurisdiction. The right to select a tribunal altogether independent of any of the States, for the settlement of controversies between the citizens of different States, and between citizens and aliens, tends greatly to increase the harmony and confidence between the States themselves; and preserve peace, and public and private credit, in our intercourse with foreign nations. It prevents all irritations and jealousies which might otherwise spring up between the different States, if the controversies between their citizens were, of necessity, subjected to the arbitrament of the tribunals of either. In the exercise of this jurisdiction, justice has been impartially and wisely distributed, while the laws of the States, not inconsistent with the Constitution of the United States, have been observed, sustained and enforced.

JOHN HEMPHILL, Chairman.

ABNER S. LIPSCOMB,	J. S. MAYFIELD,
ISAAC VAN ZANDT,	JAMES SCOTT,
JOS. L. HOGG,	J. P. HENDERSON,
JAMES ARMSTRONG,	WM. C. YOUNG,
JAMES LOVE,	E. H. TARRANT,
R. E. B. BAYLOR,	L. D. EVANS,
A. C. HORTON,	W. B. OCHILTREE.

On motion of Mr. Parker, the members of the Judiciary committee were requested to sign the above report.

Mr. Gage moved to have 500 copies printed; and,

On motion of Mr. Parker, 1000 copies were ordered to be printed.

The committee on the Judiciary, made the following report, which was adopted.

COMMITTEE ROOM, AUSTIN, July 29, 1845.

Hon. THOS. J. RUSK,
President, &c.,

The committee on the Judiciary, to whom was referred a resolution instructing them to enquire into the expediency of inserting in the Constitution a clause providing for the appointment of

an officer in each judicial district, whose duty it shall be to enquire into and cause to be adjudicated in all the district courts, all cases in their respective districts, of land titles forfeited—lands escheated within the territory of Texas; also, to enquire into the expediency of setting aside the monies arising from the sale of such lands, for the purposes of education, have had the subject under consideration, and respectfully report:

That the insertion of such a provision in the Constitution as the one referred to in the resolution, would be inexpedient. It has been heretofore, and will be hereafter competent to the Legislative power of the Government, to adopt all proper measures to secure for the public benefit, all lands which have been forfeited from any cause whatsoever.

And the committee pray to be discharged from the further consideration of the subject.

JOHN HEMPHILL, Chairman.

On motion of Mr. Moore, the Convention took up the

ORDERS OF THE DAY.

The first question in order, was the motion of Mr. Lusk to reconsider the vote prohibiting the salary of Judges being increased during their term of service.

Which motion was carried, and the vote reconsidered.

Mr. Henderson moved that the report of the Judiciary committee be laid on the table for the present.

Which motion was lost.

The question was then taken on adopting the amendment of the committee, which is as follows:

In section 9th, fourth line, after the word "be," insert the words "increased or," so as to read "be increased or diminished during their continuance in office."

Upon which the ayes and noes were called, and stood as follows:

Ayes—Messrs. President Rusk, Anderson, Armstrong of J., Armstrong of R., Bagby, Burroughs, Clark, Cunningham, Darnell, Davis, Forbes, Gage, Hemphill, Hicks, Hogg, Horton, Holland, Irion, Jewett, Jones, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lusk, Lipscomb, McGowan, Moore, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer, Van Zandt, White and Wright—38.

Noes—Messrs. Baylor, Bache, Brashear, Caldwell, Cazneau, Everts, Henderson, Howard, Hunter, Love, Mayfield, McNeill, Miller, Tarrant, Ochiltree and Young—16.

So the amendment was adopted.

The question was then taken on the motion of Mr. Darnell, to reconsider the vote fixing the salary of district Judges at $1,500.

Upon which the ayes and noes were called, and stood as follows:

Ayes—Messrs. President Rusk, Armstrong of R., Caldwell, Cazneau, Clark, Cunningham, Darnell, Forbes, Hemphill, Henderson, Horton, Howard, Holland, Irion, Jewett, Love, Lusk, Mayfield, McNeill, Miller, Moore, Power, Tarrant, Ochiltree, Van Zandt, Wright and Young—27.

Noes—Messrs. Anderson, Armstrong of J., Bagby, Bache, Brashear, Burroughs, Davis, Everts, Gage, Hicks, Hogg, Hunter, Jones, Latimer of L., Latimer of R. R., Lewis, Lumpkin, Lipscomb, McGowan, Parker, Rains, Runnels, Scott, Smyth, Standefer and White—26.

So the vote was reconsidered.

Mr. Horton moved to strike out $1,500 and insert $1,750.

Upon which the ayes and noes were called, and stood as follows:

Ayes—Messrs. President Rusk, Armstrong of J., Armstrong of R., Cazneau, Clark, Cunningham, Darnell, Forbes, Hemphill, Henderson, Horton, Howard, Holland, Irion, Jewett, Love, Lusk, Lipscomb, Mayfield, McNeill, Miller, Moore, Tarrant, Ochiltree, Van Zandt, Wright and Young—27.

Noes—Messrs. Anderson, Bagby, Bache, Brashear, Burroughs, Caldwell, Davis, Everts, Gage, Hicks, Hogg, Hunter, Jones, Latimer of L., Latimer of R. R., Lewis, Lumpkin, McGowan, Parker, Power, Rains, Runnels, Scott, Smyth, Standefer and White —26.

So the amendment was adopted.

The additional section proposed by the committee, to come in between the 9th and 10th sections, is as follows:

"The Judges of the supreme and district courts, shall be removed by the Governor, on the address of two-thirds of each House of the Legislature, for willful neglect of duty, or other reasonable cause, which shall not be sufficient ground for impeachment; provided, however, that the cause or causes for which such removal shall be required, shall be stated at length in such address, and entered on the journals of each House; and provided, further, that the cause or causes shall be notified to the Judge so intended to be removed, and he shall be admitted to a hearing in his own defence, before any vote for such address shall pass; and in all such cases, the vote shall be taken by yeas

and nays, and entered on the journal of each House respectively."

Which was adopted.

The amendment of the committee to the 10th section, last line, to strike out the word "same" and insert the word "state," was adopted.

The amendment of the committee, to add to the 10th section the following, was adopted.

"And in the trial of all criminal cases, the jury trying the same, shall find and assess the amount of punishment to be inflicted, or fine imposed, except in capital cases, or where the punishment or fine imposed, shall be specifically prescribed by law."

The amendment of the committee to the 11th section, second line, is as follows:

Strike out "amounts to" and insert "exceeds."

Mr. Ochiltree offered the following as a substitute:

In same section and line, read "exceed in amount five hundred dollars, exclusive of interest."

Which was adopted by the Convention.

The following amendment of the committee, was proposed as a substitute to the 12th section, down to the word "and" in the fourth line.

"The Legislature shall, by joint vote of both Houses, elect one Attorney General, who shall hold his office for the term of two years; and a District Attorney for each judicial district, who shall hold their offices for two years; and in case of vacancy, the Governor shall fill such vacancy until the next session of the Legislature."

Which amendment was rejected by the Convention.

The committee proposed the following additional section, to come in between the 11th and 12th sections:

"There shall be a Clerk of the district court, for each county, who shall be elected by the qualified voters for members of the Legislature. He shall hold his office for two years, subject to removal by information, or by presentment of a grand jury, and conviction of a petit jury. In case of vacancy, the district court shall have the power to appoint a Clerk, until a regular election can be had."

Which was adopted.

The amendment of the committee to the 13th section, was adopted, and is as follows:

Add to the section "The Sheriff shall not be eligible more than four years in every six."

The following substitute to a part of the 14th section, from

the word "when" in the third line, to the word "case" in the 6th line, inclusive, was proposed by the committee, and adopted by the Convention:

"When the Supreme Court or any two of its members, shall be thus disqualified to hear and determine any cause or causes in said court, or when no judgment can be rendered in any case or cases in said court, by reason of the equal division in opinion of said Judges, the same shall be certified to the Governor of the State, who shall immediately commission the requisite number of persons learned in the law, for the trial and determination of said case or cases."

The following is the amendment of the committee to the 15th section:

Strike out all after the word "estates" in fourth line—add "and the District Court shall have such jurisdiction over said tribunals, and over executors, administrators, guardians, and minors, as may be prescribed by law."

On motion of Mr. Cunningham, the amendment of the committee, together with the 15th section of the report, were referred to the committee on the Judiciary.

The following is an additional section, proposed by the committee, to section 16:

"In all actions pending in the District Courts, whether in law or equity, either party, upon application, shall have the right of trial by jury.

In all actions arising out of contracts before any inferior tribunal, when the amount in controversy shall exceed
dollars, either party, upon application, shall have the right of trial by jury.

In all cases where justices of the peace, or other judicial officers of inferior tribunals, shall have the right to fine or imprison, for any violation of a penal statute, the accused shall have the right of a trial by jury."

Which, on motion of Mr. Love, was referred to the Judiciary committee.

On motion of Mr. Cazneau, the report and amendments were laid on the table, and the Secretary ordered to make out a fair copy of said report, embodying the amendments.

On motion of Mr. Jewett, the Convention adjourned until half past 8 o'clock, to-morrow morning.